IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order: 9.11.2017

Appeal No. E/57128/2013-SM

(Arising out of Order-in-Appeal No. 02/CE/APPEAL/2013 dated 22.1.2013 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, New Delhi)

M/s Hindustan Insecticides Ltd. Appellant

Vs.

CCE & ST, LTU, New Delhi Respondent

Appearance

Ms. Sukriti Das, Advocate - for the appellant

Shri U. Sengraj, D.R. - for the respondent

CORAM: **Hon'ble Mr. Justice (Dr.) Satish Chandra, President**

Final Order No. 57847/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed against the Order-in-Appeal No. 02/2013 dated 22.1.2013. The disputed point in the present appeal is regarding the Cenvat credit in respect of i.e:

(i) GTA service since availed for outward transportation of finished goods from the factory gate to customer's premises; and

(ii) Credit availed on TR-6 challan prior to 16.6.2005 i.e. before being notified as a prescribed document under Rule 9 of the Credit Rules.

The same was not allowed. So, the present appeal has been filed by the appellant.

2. With this background, heard Ms. Sukriti Das and Shri U. Sengraj, ld. Counsels for the parties.

3. During the course of argument, both parties have agreed that the Commissioner (Appeals) in this order has mentioned that the appellant have not submitted any documentary evidence i.e. purchase order, sale agreement or the sale invoice which would satisfy the conditions viz. (i) the ownership of goods and the property and the goods remained with the seller of the goods till the delivery of the goods in acceptable condition to the purchaser at his door step: (ii) the seller bore the risk of loss of or damage to the goods during transit to the destination; and (iii) the freight charges were an integral part of the price of goods as laid down by the said CBEC Circular No. 97/8/2007-ST dated 23.8.207. It is evident from the circular that, for the "Place of Removal" to be the destination point of the final goods manufactured, the manufacturer has to specifically fulfil the 3 conditions as mentioned therein.

4. During the course of argument, the ld. Counsel submits that the necessary information can be supplied if a chance to be provided. When it is so, then we set aside the impugned order and remand the matter to the original authority to decide the issue de novo but by providing an opportunity of hearing. Additional evidence, if need be, may be admitted as per law.

5. In the result appeal filed by the appellant is allowed by way of remand.

(Dictated & pronounced in open Court)

(Justice Dr. Satish Chandra)
President

RM