IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH: KOLKATA

Appeal No. E/76225/2018

(Arising out of Order-in-Appeal No. 46/BDN/CT(Audit-II)2017-18 dated 22.02.2018 passed by the Commissioner of Central Tax (Appeal), Audit-II.

M/s. Banshidhar Chemicals.

Appellant (s)

Vs.

Commissioner of Central Excise & Service Tax, Durgapur-IV

Respondent (s)

<u>Appearance:</u>
Shri Amitabha Lahiri, Adv. for the Appellant (s)
Shri A. Roy, Suptd. (A. R.) for the Revenue

CORAM:
HON'BLE SHRI P.K.CHOUDHARY, MEMBER (JUDICIAL)
Date of Hearing: -29.05.2018
Order No. FO/76598/2018

PER SHRI P.K.CHOUDHARY

The facts of the case in brief are that the appellant is engaged in the manufacture of various chemicals, inter-alia, Hexachlorobenzene classifiable under Chapter 29 of the First Schedule to the Central Excise Tariff Act, 1985. During the process of manufacture of Hexachlorobenzene, small quantity of Hydrochloric Acid of low strength is generated. Whenever, this Hydrochloric Acid sold is out to any customer, then the same is cleared on payment of duty but there being no ready market, to avoid pollution hazards, the said product is neutralized with Sodium Carbonate Known as Soda Ash. Hydrochloric acid So generated during the course of manufacture of the main product i.e. Hexachlorobenzene, if left out in the environment as such, will cause serious environmental/pollution issues. The period of dispute is 2008-09.

2. A Show Cause Notice dated 29/09/2011 was issued for ir-regular availament of Cenvat Credit. The Adjudicating Authority confirmed the demand of Rs.70,587/- along with interest and imposed penalty of equal amount under Rule 15(2) of the Cenvat Credit Rules, 2004 read with Section 11 AC of the Central Excise Tariff Act, 1944.

3. On appeal, the Ld. Commissioner (Appeals) upheld the OIO and rejected the appeal filed by the assessee. Hence, the present appeal before the tribunal.

4. The Ld. Advocate appearing on behalf of the appellant submits that when the quality of Hydrochloric Acid is of proper strength, then there is a market for it and it is sold. But in most cases the quality/strength is much lower than the standard strength available in the market and in such a case, there are no buyers and the appellant has no option but to neutralize the same with Soda Ash and release the same as effluent to avoid any pollution and environmental issues. It is his submission that necessary declaration under Rule 57 G of earstwhile Central Excise Rules, 1944 was duly submitted. He relied upon various decisions in support of his submission.

5. The Ld DR reiterates the orders of the Lower Authorities.

6. Heard both sides and perused the appeal records.

7. I observe that the set of words “in relation to manufacture” has a very wide connotation. It is also a very broad expression. ‘Relating to’ is equivalent to or synonymous with ‘concerning with’ and ‘pertaining to’. The lower Appellate Authority should have appreciated that

Pollution Control Board would withdraw the consent to manufacture in case generation of effluent is not properly handled. In the instant case, neutralization of Hydrochloric acid by addition of soda ash is a process integrally connected to the manufacture of Hexachlorobenzene which is cleared on payment of duty. Therefore use of soda ash for neutralization of Hydrochloric Acid is "in relation to manufacture" of Hexachlorobenzene and hence eligible for Cenvat credit.

8. In view of the above discussion, the impugned order is accordingly set aside and the appeal filed by the appellant is allowed with concequential, relief if any.

(Operative part of the order was pronounced in the open court.)

Sd/-
(P.K. Choudhary)
Member (Judicial)

Pooja