IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No.261 of 2010

(Arising out of Order-in-Appeal No.68/ST/2010 dated 31.03.2010 passed by Commissioner (Appeals) of Central Excise, Kolkata)

M/s Unitech Paper Mills Pvt. Ltd.
Balichak, Chakshyampur, Dist.-Midnapur (West), Pin0721124

Appellant

VERSUS

Commissioner of Service Tax, Haldia
15/1 Strand Road, Kolkata 700001

Respondent

APPERANCE :
Shri H.K.Pandey, Advocate for the Appellant
Shri A.Roy, Authorized Representative for the Revenue

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO…75066/2023

DATE OF HEARING : 02 .03.2023
DATE OF DECISION : 02 .03.2023

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the demand has been confirmed for the services of outward transportation services, on which the appellants have availed cenvat credit.

2. Facts of the case are that the appellant has supplied the goods to the customers on FOR basis for transportation upto the place of customer, on which they are paying service tax and availed credit on service tax as input service.

3. Revenue is of the view that the transportation of goods to the buyers is not input service for the appellant. Accordingly, cenvat credit availed by the appellant is denied.

4. Hence the present appeal.

5. Heard the parties.

6. Considering the facts that issue involved in this appeal is for the period from 01.01.2005 to February, 2008, which is prior to 01.04.2008. As the issue has already been settled by the Hon'ble Apex Court in the case of Commissioner of Central Excise, Belgaum Vs.

Vasavadatta Cements Ltd. reported in 2018 (11) GSTL 3 (SC), wherein it has been held that prior to 01.04.2008, the assesse is entitled to take cenvat credit on outward transportation service. Therefore, we hold that the appellant has correctly taken the cenvat credit on outward transportation service. Accordingly, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Dictated and pronounced in the open court)

Sd/-
(Ashok Jindal)
Member (Judicial)

Sd/-
(K.Anpazhakan)
mm **Member (Technical)**