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

REGIONAL BENCH – COURT NO.1

Excise Appeal No.76589 of 2019
(On behalf of Appellant)

(Arising out of Order-in-Appeal No.150/HAL/CE/2017-18 dated 05.03.2018 passed by Commissioner (Appeals) of CGST & Excise, Kolkata)

M/s Sai Surfactants Private Limited
(Plot No.1517(P), Mouza : Debhog, Haldia)

Appellant

VERSUS

Commissioner of CGST & Excise, Haldia
(15/1, Strand Road, Kolkata-700001)

Respondent

APPERANCE :

Shri N.K.Chowdhury, Advocate for the Appellant
Shri J.Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO…75105/2024

DATE OF HEARING : 31.01.2024
DATE OF DECISION : 31.01.2024

Per Ashok Jindal :

The appellant is in appeal against the impugned order contesting only disallowance of cenvat credit of service tax paid on outward transportation services of Rs.74,608/- along with interest.

2. The facts of the case are that the appellant is selling goods as per contract up to the place of buyer's premises and the transportation charges are inclusive in the price on which the goods were sold by the appellant. During the impugned period, there was an amendment in the definition of "place of removal". As per the said definition, the assessee is entitled to take the cenvat credit up to the place of removal in terms of the amended definition of input services w.e.f.01.04.2008.

As the appellant was selling the goods as per contract and the transportation charges were included in the price, on which the goods were sold, the appellant is paying transportation charges along with service tax and availed cenvat credit thereof. The Revenue was of the view that as place of removal is the factory gate of the appellant, therefore, on transportation charges, they are not entitled to take the cenvat credit. Accordingly, the proceedings were initiated against the appellant. By way of impugned order, the cenvat credit was denied along with interest. Against the said order, the appellant is before me.

3. Heard both the parties and considered the submissions.

4. The ld.Counsel for the appellant relies on the latest decision of the Hon'ble Karnataka High Court in the Bharat Fritz Werner Limited Vs. Commissioner of Central Excise, Bangalore reported in 2022 (66) GSTL 434 (Kar.) wherein it was held that the price of goods sold are inclusive of transportation charges and the goods are to be sold at the buyer's place, therefore, the appellant is entitled to take the cenvat credit on outward transportation charges, therefore, the place of removal is the buyer's premises.

4. In that circumstances, I hold that the appellant is entitled to take the cenvat credit amounting to Rs.74,608/- and no interest is payable by the appellant.

5. In view of the above, the appeal is disposed off.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

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