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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 75818 of 2017

(Arising out of Order-in-Original No. 02/Commissioner/C.E./Kol-IV/2017 dated 17.02.2017 passed by the Commissioner of Central Excise, Kolkata-IV Commissionerate, M.S. Building, 15/1, Strand Road, Kolkata – 700 001)

M/s. NALCO Water India Limited **: Appellant**
[Formerly 'M/s. NLC NALCO India Limited']
1, Lenin Sarani, Konnagar,
District: Hooghly, PIN – 712 235

VERSUS

Commissioner of Central Excise **: Respondent**
Kolkata-IV Commissionerate,
M.S. Building, 15/1, Strand Road, Kolkata – 700 001

APPEARANCE:

Shri Arvind Baheti, Chartered Accountant, for the Appellant

Shri S.K. Dikshit, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 77044 / 2025

DATE OF HEARING / DECISION: 24.07.2025

ORDER: [PER SHRI ASHOK JINDAL]

Heard the parties.

2. We find that the short issue that emerges to be decided by this Tribunal is as to whether the CENVAT Credit availed on inputs / imported goods could be denied when such goods, after having undergone some processes which have been held as not amounting to manufacture, are cleared on payment of duty, or not.

3. The facts which are not in dispute are that the appellant imported several chemicals and also procured the same from the domestic market. The appellant availed CENVAT Credit of Additional Duty of Customs and CENVAT Credit of duty paid on the said inputs. Certain processes were undertaken, which were held by the Revenue to be not amounting to manufacture, but the said goods have been cleared by the appellant on payment of duties.

3.1. These facts are not in dispute.

4. In these circumstances, we rely on the decision of the Hon'ble High Court in the case of *Commissioner of Central Excise, Pune-III v. Ajinkya Enterprises [2013 (294) E.L.T. 203 (Bom.)]* wherein the Hon'ble High Court has observed as under: -

> *"10. Apart from the above, in the present case, the assessment on decoiled HR/CR coils cleared from the factory of the assessee on payment of duty has neither been reversed nor it is held that the assessee is entitled to refund of duty paid at the time of clearing the decoiled HR/CR coils. In these circumstances, the CESTAT following its decision in the case of Ashok Enterprises - 2008 (221) E.L.T. 586 (T), Super Forgings - 2007 (217) E.L.T. 559 (T), S.A.I.L. - 2007 (220) E.L.T. 520 (T) = 2009 (15) S.T.R. 640 (Tribunal), M.P. Telelinks Limited - 2004 (178) E.L.T. 167 (T) and a decision of the Gujarat High Court in the case of CCE v. Creative Enterprises reported in 2009 (235) E.L.T. 785 (Guj.) has held that once the duty on final products has been accepted by the department, CENVAT credit availed need not be reversed even if the activity docs not amount to manufacture. Admittedly, similar view taken by the Gujarat High Court in the case of Creative Enterprises has been upheld by the Apex Court [see 2009 (243) E.L.T. A121] by dismissing the SLP filed by the Revenue."*

4.1. Admittedly, in this case, the duty paid by the appellant has not been refunded to them. Therefore, the payment of duty by the appellant shall be deemed as reversal of CENVAT Credit when it has been held that the activity undertaken by the appellant does not amount to manufacture. In these circumstances, we find that the appellant is not required to reverse the CENVAT Credit availed by them on inputs / imported goods.

5. Thus, we do not find any merit in the impugned order and accordingly, the same is set aside.

6. In the result, the appeal is allowed, with consequential relief, if any.

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

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd