CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

Excise Appeal No. 682 of 2011

(Arising out of Order-in-Original No. Belapur/37-38/Bel-II/R-II/Commr/SLM/2010-11 dated 18.01.2011 passed by the Commissioner of Central Excise, Belapur)

M/s. Savita Oil Technologies Ltd …..**Appellant**
Plot no. 17-17A,
Thane Belapur Road,
PO Vashi, Navi Mumbai

Vs.

Commissioner of Central Excise, Belapur …..**Respondent**
1st Floor, CGO Complex,
CBD Belapur,
Navi Mumbai

APPEARANCE:

Shri Rajesh Ostwal, Advocate for the appellant
Shri N.N. Prabhudesai, Supdt.(AR) for the respondent

CORAM: Hon'ble Mr C J Mathew, Member (Technical)
Hon'ble Ajay Sharma, Member (Judicial)

FINAL ORDER No: A/86097 / 2019

DATE OF HEARING : 01.01.2019
DATE OF DECISION : 14.06.2019

PER: C J MATHEW

This appeal lies against order-in-original no. Belapur/37-38/Bel-II/R-II/Commr/SLM/2010-11 dated 18th January 2011 of Commissioner of Central Excise, Belapur which has confirmed recovery of ₹72,98,407/- of CENVAT credit that was erroneously availed between November 2004 and January 2010 besides imposing penalty and ordered recovery of interest.

2. The issue pertains to the availment of CENVAT credit against documents evidencing duties paid upon procurement of ‘base oil’ and ‘other lubricating oils’ in bulk but not reversed to the extent of actual receipt at the premises of the appellant.

3. Learned Counsel for the appellant contends that the issue has been settled by the decision of the Tribunal in their own matter in order no. A/91531/17 dated 15th December 2017 disposing of appeal no. E/85340/2017 against order-in-appeal no. PK/149/BEL/2016 dated 8th December 2016.

4. We have heard Learned Authorised Representative.

5. It is seen that the order cited on behalf of appellant has settled the issue based on earlier orders of the Tribunal in their own matter. Likewise the decision of Tribunal in *Neera Enterprises v. Collector of Central Excise, Chandigarh [1998 (104) ELT 382 (T)], Commissioner of Central Excise, Rajkot v. Bombay Dyeing & Mfg Co Ltd [1998 (97) ELT 101 (T)* and host of others on similar lines preclude the recovery of duty in consequence of difference between quantity paid for and actual ascertainment on receipt.

6. In view of the above, we set aside the impugned order and allow the appeal.

(Order pronounced in open court on 14.06.2019)

(C J Mathew)
Member (Technical)

(Ajay Sharma)
Member (Judicial)

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