CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI

REGIONAL BENCH - COURT NO. 02

Service Tax Appeal No. 89145 of 2018

(Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-234-18-19 dated 01.08.2018 passed by Commissioner of Central Tax (Appeals-I), Pune)

M/s Rohit Springforms Pvt Ltd .....**Appellant**
T-173, MIDC, Bhosari,
Pune-411026

VERSUS

Commissioner of Central Excise & Service Tax, Pune-I .....**Respondent**
41-A, ICE House, Sasson Road,
Opp. Wadia College, Pune,
Maharashtra-411001

Appearance:

Shri V.A. Shete, Advocate for the Appellant
Shri Onil Shivadikar, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86685 / 2019

Date of Hearing: 28.08.2019
Date of Decision: 28.08.2019

Per: S.K. MOHANTY

Heard both sides and perused the records.

2. Brief facts of the case are that the appellant is engaged in the manufacture of excisable goods, namely spring leaves and electrical capacitors, falling under Chapter 73 and 85 respectively of the First Schedule to the Central Excise Tariff Act, 1985. The appellant avails Cenvat credit of central excise duty paid on the inputs and capital goods and service tax on the input services. During the period from July 2015 to June 2016, the

appellant had availed Cenvat credit of service tax paid on the GTA service for transportation of the excisable goods from the factory for delivery at the buyer's premises. Taking of such Cenvat credit was disputed by the department on the ground that outward transportation service is not confirming to the definition of input service. Accordingly, show cause proceedings were initiated against the appellant, which culminated into the adjudication order dated 19.03.2018, wherein Cenvat credit amount of Rs.2,11,047/- was disallowed. The said order also confirmed the interest demand and imposed equal amount of penalty on the appellant. On appeal, the learned Commissioner (Appeals), Central Tax, Pune vide the impugned order dated 01.08.2018 has upheld confirmation of the adjudged demand on the appellant. Hence, the present appeal was preferred by the appellant before this Tribunal.

3. The case of the appellant is governed under the definition of amended provisions Rule 2(l) of the Cenvat credit Rule, 2004 (effective from 01.03.2011). Under such amended Rules, outward transportation up to the place of removal of final product is considered as input service for the purpose of availment of Cenvat credit of service tax paid thereon. On perusal of the purchase order issued by the buyer of the goods and the tax invoice issued by the appellant, I find that the place of removal was the factory gate and the appellant had arranged transportation for delivery of the goods at the buyer's factory. The issue, as to whether, buyer's premises should be considered as place of removal for the benefit of Cenvat credit of service tax paid on GTA service was dealt with by the Hon'ble Supreme Court in the case of Commissioner of Central Excise and S.T. Vs. Ultra Tech Cement Ltd.-2018 (9) G.S.T.L. 337 (S.C.), holding that Cenvat credit on goods transport agency service availed for transport of goods from place of removal to buyer's premises was not admissible to the respondent. Since, the modus

operandi adopted by the appellant in the present case is identical to the facts and circumstances of the case decided by the Hon'ble Supreme Court, I do not find any justifiable reason to accept the submissions of learned Advocate for the appellant that the benefit of outward transportation of goods should be available to the appellant for the Cenvat benefit.

4. Therefore, I do not find any infirmity in the impugned order passed by the learned Commissioner (Appeals). Accordingly, appeal filed by the appellant is dismissed.

(Dictated and pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

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