CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH
COURT No. I

Excise Appeal No. 1642 of 2010

(Arising out of Order-in-Original No. 36/BR-36/Th-I/2010 dated 30.07.2010 passed by Commissioner of Central Excise, Thane-I)

M/s. Amartara Pvt. Ltd. **Appellant**
Saki Vihar Road,
Mumbai 400 072.

Vs.

Commissioner of Central Excise, Thane-I **Respondent**
4th floor, Navprabhat Chambers,
Ranade Road, Dadar (W),
Mumbai 400 028.

WITH

Excise Appeal No. 1643 of 2010

(Arising out of Order-in-Original No. 36/BR-36/Th-I/2010 dated 30.07.2010 passed by Commissioner of Central Excise, Thane-I)

Shri Arjun Sarup **Appellant**
Director, Amartara Pvt. Ltd.,
Saki Vihar Road,
Mumbai 400 072.

Vs.

Commissioner of Central Excise, Thane-I **Respondent**
4th floor, Navprabhat Chambers,
Ranade Road, Dadar (W),
Mumbai 400 028.

Appearance:

Shri Ravinder Jain, Consultant, for the Appellant
Ms. Anuradha Parab, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO. A/**85004-85005/2020**

Date of Hearing: 02.01.2020
Date of Decision: 02.01.2020

PER: DR. D.M. MISRA

These appeals are filed against order-in-original No. 36/BR-36/Th-I/2010 dated 30.07.2010 passed by Commissioner of Central Excise, Thane-I.

2. Briefly stated the facts of the case are that the appellants are engaged in the manufacture of Reflex PVC Film falling under Chapter 39 and Coldflex falling under Chapter 76 of the Central Excise Tariff Act, 1985. They imported PVC film/aluminium in rolls and after slitting such rolls as per the required sizes, cleared the same under their brand name on payment of appropriate central excise duty. Alleging that the cenvat credit availed on the duty paid imported Reflex PVC film and aluminium rolls not admissible, show cause notice was issued to them for recovery of the credit amounting to Rs.72,32,675/- for the period from May 2007 to December 2007 with interest and penalty; personal penalty was proposed on the Director under Rule 15(1) of the Cenvat Credit Rules, 2004. On adjudication, the demand was confirmed with interest and penalty and personal penalty of Rs.25,00,000/- imposed on the Director under Rule 15(1) of the Cenvat Credit Rules, 2004. Hence, the present appeals.

3. At the outset, the learned Consultant for the appellants has submitted that they have availed cenvat credit on the imported films in roll forms, which were later slitted into different sizes as per the requirements of the customers. It is his contention that the slitted rolls were cleared on payment of appropriate excise duty during the relevant period. He submits that later, demand notice was issued to them alleging that the process of slitting of rolls into small sizes, since does not amount to manufacture, accordingly, cenvat credit availed on the imported jumbo rolls not admissible to them. He submits that subsequently, Notification No. 24/2012-CE(NT) dated 19.04.2012 was issued by the Government regularizing the

cenvat credit availed on rolls which were subjected to the process of cutting, slitting and printing till 15th March 2012. In other words, cenvat credit availed on jumbo rolls was not required to be reversed on the ground that cutting, slitting etc. did not amount to manufacture. He has submitted that, interpreting the said notification, this Tribunal in a series of cases including in the case of *CCE, Pune-II vs. Associated Capsules Ltd. – 2014 (300) ELT 536 (Tri.-Mumbai)* and *CCE, Daman vs. Medley Pharmaceuticals Ltd. – 2013 (292) ELT 100 (Tri.-Ahmd.)*, held that cenvat credit availed on jumbo rolls need not be reversed when such inputs are subjected to the process of cutting, slitting etc.

4. Learned AR for the Revenue reiterated the findings of the Commissioner.

5. We have carefully considered the submissions advanced by both sides and perused the records. The short issue involved for determination is whether the appellants are entitled to avail cenvat credit on imported inputs, viz. PVC film/aluminium in rolls, when they are subjected to process of cutting, slitting etc. to the required sizes as per the customer's requirements, cleared on payment of duty. We find that the issue is no more *res integra* being clarified by issuance of Notification No.24/2012-CE(NT) dated 19.04.2012. The said notification reads as follows:-

<u>"Notification: 24/2012-C.E. (N.T) dated 19-Apr-2012</u>

Cenvat credit on inputs capital goods and input services used in process of cutting, slitting and printing of Aluminium foil not be reversed for goods made and cleared upto 15-3-2012

In exercise of the powers conferred by section 5B of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby orders that where an assessee has paid duty of excise on the process of cutting, slitting and printing of aluminium foils (hereinafter referred to as final product), falling under heading 7607 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), the CENVAT credit taken or utilised, of the duty or *tax or cess paid on inputs, capital goods and input services used in the making of the said final product, shall not be required to be reversed, notwithstanding that the process of cutting, slitting and printing of aluminium foils have been held as not amounting to manufacture by the Central Excise and Service Tax Appellate Tribunal by its order in Appeal No. 3181 of 2010 in the case of M/s. Printo India Graphics (P) Ltd. v. CCE, Delhi and upheld by the Supreme Court in Civil Appeal No. 8533 of 2011, subject to the following conditions, namely :-*

(a) the said non-reversal shall be allowed only for the CENVAT credit taken upto the 15th of March, 2012.

(b) the said non-reversal shall be allowed only when excise duty has been paid on removal of the said final product.

(c) the said assessee shall not prefer a claim of refund of the excise duty paid by him on the said final product :

Provided that the CENVAT credit, if any, taken by the buyer of the said final product, of the excise duty paid by the said assessee on the said final product made and cleared up to the 15th March, 2012 shall not be required to be reversed."

6. This Tribunal in the cases of *Associated Capsules Ltd.* (supra) and *Medley Pharmaceuticals Ltd.* (supra) held that cenvat credit cannot be demanded on the ground that the process of cutting, slitting etc. of jumbo rolls do not result into manufacture. Following the aforesaid precedent and in view of the clear wording of Notification No.24/2012-CE(NT) dated 19.04.2012, we do not find merit in the impugned order. Consequently, the same is set aside and the appeals are allowed with consequential relief, if any, as per law.

(Dictated and pronounced in the open court)

(Dr. D.M.Misra)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

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