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

REGIONAL BENCH - COURT NO. 02

Excise Appeal No. 87672 of 2018

(Arising out of Order-in-Appeal No. NGP/EXCUS/000/APPL/814/17-18 dated 20.03.2018 passed by Commissioner of Customs, Central Excise & GST (Appeals) Nagpur)

M/s Uniworth Textiles **.....Appellant**
(EOU Unit)
B-129, MIDC Industrial Area,
Butibori, Nagpur-441108

VERSUS

Commissioner of Central Excise & Service Tax, Nagpur **.....Respondent**
P.O. Box 8, Telangkhedi Road,
Civil Lines, Nagpur-440001

Appearance:

Shri Rohan Balani, Advocate for the Appellant
Shri N.N. Prabhudesai, Authorized Representative for the Respondent

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

FINAL ORDER NO. A/ 87464 / 2019

Date of Hearing: 08.01.2019
Date of Decision: 08.01.2019

Per: S.K. MOHANTY

Brief facts of the case are that the appellant is a 100% EOU, engaged in the manufacture of woollen and cotton fabrics, falling under Chapter 51 and 52 of the Schedule to the Central Excise Tariff Act, 1985. During the disputed period, the appellant had availed Cenvat credit on the duty paid goods on the basis of invoices, which were not consigned to it and did not bear its name. Accordingly, the department initiated show cause proceedings and confirmed the adjudged demands on the appellant. On appeal, the learned Commissioner (Appeals) vide the impugned order dated 20.03.2018 has upheld the adjudication order and rejected the appeal filed by the appellant. Feeling aggrieved with the impugned order, the appellant has preferred this appeal before the Tribunal.

2. Heard both sides and perused the records.

3. In this case, the fact is not under dispute that the appellant has conceded the issue of disallowance of Cenvat credit and recovery of interest. On perusal of the impugned order, I find that certain issues were raised for the first time before the Commissioner (Appeals), which were not considered by him in terms of Rule 5 of the Central Excise (Appeals) Rules, 2001 on the ground that the said stand was not raised at the original stage. I do not find any infirmity in the impugned order passed by the learned Commissioner (Appeals).

4. Therefore, there is no substance in the appeal filed by the appellant before the Tribunal. Accordingly, the appeal is dismissed.

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

(S.K.Mohanty)
Member (Judicial)

HK