CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 86527 of 2015

(Arising out of Order-in-Appeal No. CD/298/RGD/2015 dated 03.03.2015 passed by the Commissioner of Central Excise (Appeals), Mumbai)

Sequent Scientific Ltd. **.... Appellant**
B- 32, M.I.D.C., Mahad,
Dist. Raigad

Versus

Commissioner of Central Excise, Raigad **.... Respondent**
Kendriya Utpad Shulk Bhavan,
Utpad Shulk Bhavan, Khandeshwar,
New Panvel- 410 206.

Appearance:

Shri P.K. Shetty, Advocate for the Appellant

Shri Xavier Mascarenhas Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85673/2024

Date of Hearing: 03.07.2024

Date of Decision: 03.07.2024

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. Denial of Cenvat Credit on the components namely Bearings, seals & packing, hose pipes, Electronic Motors and Pumps, as capital goods is the subject matter of present dispute. At paragraph 2 in the Show Cause Notice (SCN) dated 04.12.2012, the department had stated that the disputed goods fall under Chapter heading 81, 59, 40 and 72 of the Central Excise Tariff Act, 1985 and that since those disputed goods are not used as components, accessories or spares of the machine/machineries falling under Chapter 82, 85, 90 and 6805 of the Tariff Act, 1985, the same should not be considered as capital goods for the purpose of availment of Cenvat Credit of Central Excise duty paid thereon. On the basis of the said SCN issued by the department, both the authorities below have confirmed the cenvat

demand on the appellant, holding that those disputed goods should not be considered as capital goods for the purpose of availment of Cenvat Credit.

3. We have perused the Annexure attached to the SCN dated 04.12.2012 indicating the amount of Cenvat Credit proposed for recovery and the description of the individual goods and the Cenvat Credit involved therein. On perusal of such Annexure, we find that the goods have been described as 'bearings' and 'electrical motor', falling under tariff item 84821090 & 85015110. Since, those disputed goods fall under the eligible Chapter of 84 and 85, the said goods by virtue of their classification, should alone be considered as permitted capital goods for the purpose of taking the benefit of Cenvat Credit. We are surprised to note that how the SCN had contradicted with the stand that the disputed goods fall under Chapter heading other than those described in the definition of capital goods. Since, the Annexure to the SCN has clearly described the description of the goods, on which the appellant had availed the Cenvat Credit and those goods fall under Chapter 84 and 85 of the CETA, 1985, we are of the considered view that taking of Cenvat Credit on those goods, considering them as capital goods, is in conformity with the statutory provisions.

4. Therefore, we do not find any merits in the impugned order, insofar as it has upheld confirmation of the adjudged demands on the appellants. Accordingly, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM