CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

E-HEARING

Excise Cross Objection No. 91183 of 2013
In
Excise Appeal No. 88827 of 2013

(Arising out of Order-in-Original No. Bel-EXCUS-000-COM-007-2013 dated 28.05.2013 passed by Commissioner of Central Excise, Belapur.)

Commissioner of CGST and Central Excise, Belapur. .... Appellant
1st Floor, C.G.O. Complex,
CBD Belapur,
Navi Mumbai-400 614.

VERSUS

Galaxy Surfactants Ltd .... Respondent
Plot no. V-23, MIDC,
Taloja, Taluka- Panvel,
Raigad-410 208.

APPEARANCE:

Shri Xavier P.M. Mascarenhas, Authorized Representative for the Appellant.

Shri Arjun Raghavendra, Advocate for the Respondent.

CORAM:

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

FINAL ORDER NO. A/86751/2025

Date of Hearing: 17.07.2025
Date of Decision: 31.10.2025

Per: S.K. MOHANTY

Briefly stated, the facts of the case are that the respondents herein are engaged *inter alia*, in the manufacture of OSAA-Sodium Lauryl Sulphate (SLS) and Sodium Lauryl Ether Sulphate (SLES) etc., falling under Chapter Heading No. 3402 of the First Schedule to the Central Excise Tariff Act, 1985. The respondents also export the said goods in discharge of export obligation under Advance License/Authorization Scheme. For fulfilment of the export obligation under the said scheme, the respondents in this case, had procured the raw material i.e., Ethylene Oxide from M/s Reliance Industries Ltd. (RIL) by availing the facility of Invalidation Letter. On the basis of such letter issued by the Joint Director General of Foreign Trade (JDGFT), the supplier of the said goods i.e., RIL was eligible to clear the goods without payment of duty. However, the said supplier had chosen to clear the goods on payment of duty, which was availed as CENVAT credit by the respondents. Since RIL did not avail the facility of non-payment of duty and paid the duty amount, which was availed by the respondents as CENVAT credit, the department had raised the objection that the respondents have colluded with RIL to avail the undue CENVAT benefit. Accordingly, Show Cause Notice (SCN) dated 17.05.2012 was issued to the respondents, seeking confirmation of the CENVAT demand along with interest and for imposition of penalty. The matter arising out of the SCN was disposed of by the learned Adjudicating Authority vide the impugned order dated 28.05.2018, in dropping the proposals made in the SCN dated 17.05.2012. Feeling aggrieved with the impugned order, Revenue has preferred this appeal before the Tribunal.

2. Revenue has assailed the impugned order *inter alia*, on the ground that the supplier of raw material i.e., RIL was not required to pay any duty in terms of the Notification No.44/2001-C.E. (N.T.) dated 26.06.2001 and the duty so paid cannot be taken as CENVAT credit by the respondents, which is against the provisions of Advance License scheme; that the order of the Tribunal in the case of M/s *Oleofine Organics (India) Pvt. Limited Vs. CCE, Thane* – 2013 – TIOL - 896 – CESTAT – MUM, on identical facts cannot be considered, in view of the fact that said order had been appealed against by Revenue before the Hon'ble Bombay High Court.

3. Heard both sides and perused the case records.

4. Rule 3 of the CENVAT Credit Rules, 2004 permits a manufacturer of excisable goods to take CENVAT credit of central excise duty paid on the inputs. No specific provisions have been made either in the Central Excise or CENVAT statute, requiring the supplier to avail the benefit of Notification dated 26.06.2001 for non-payment of central excise duty for clearance of the goods from their factory. Since, the respondents as the recipient unit of the raw material supplied by RIL and availed the CENVAT credit, it cannot be denied with such benefit of central excise duty paid thereon. In other words, the respondents in this case, had complied with the requirement under the CENVAT statute that the goods were duty paid, received under the cover of proper duty paying document(s) in their factory and intended for use in the

manufacturing process of the final products. Even assuming that the supplier had not availed the benefit of the Notification dated 26.06.2001 and had chosen to have paid the duty, proceedings if any, can only be initiated against them and the respondents cannot be saddled with any penal consequences by way of disallowing the CENVAT credit. Therefore, in our considered view, dropping the proposals made in the SCN by the original authority is in conformity with the statutory provisions.

5. One of the ground urged in this appeal by Revenue is that the order of the Tribunal in the case of M/s *Oleofine Organics (India) Pvt. Limited* (supra) has been appealed against and thus, the ratio laid down therein cannot be applied to grant the benefit in favour of the present respondents. We find that though Revenue had preferred appeal against the order dated 10.04.2013 of the Tribunal, but the same was dismissed by the Hon'ble Bombay High Court vide order dated 13.10.2015, passed in Central Excise Appeal No.297 of 2013. Thus, the order dated 10.04.2013 passed by the Tribunal has attained finality and the issue decided therein being entirely identical to the facts of the present case, the ratio of said order is squarely applicable for providing the benefit of CENVAT credit to the respondents.

6. In view of the above discussions, we do not find any infirmity in the impugned order dated 28.05.2013 passed by the learned adjudicating authority. Therefore, appeal filed by Revenue is dismissed. Cross objection filed by the respondents stand disposed of.

(Order pronounced in the open court on 31.10.2025)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

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