CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD

REGIONAL BENCH, COURT NO. 2

EXCISE APPEAL NO. 12133, 12758 OF 2019
EXCISE APPEAL NO. 10110 OF 2020

ULTRATECH CEMENT LTD & Ors.	**Appellant**
Vs.	
COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX-KUTCH (GANDHIDHAM)	**Respondent**

Appearance:
Present for the Appellant : Shri Ishan Bhatt, Advocate
Present for the Respondent : Shri R K Agarwal, Superintendent (AR) and Rajesh Nathan, Assistant Commissioner (AR)

CORAM:
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE Dr. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)

Date of Hearing : **11/03/2026**

ORDER

We have heard the learned Counsel for the appellant and the learned Authorised Representative for the Revenue to some extent. The main issue to be decided in the case as clarified by the Commissioner is 'whether the Noticee is eligible for Cenvat Credit of concessional CVD paid on imported coal at the rate of 1% or 2% claiming benefit of notification issued in terms of Section 25(1) of the Customs Act, 1962 or not. The undisputed facts of the case is that the noticee is engaged in manufacturing cement and cement clinker falling under chapter 25 of the CETA and holding Central Excise Registration for payment of Central Excise Duty. The noticee imported steam coal classifiable under chapter 27011920 of Customs Tariff Act, 1975 and utilized it in manufacturing dutiable goods. They had paid CVD on such imported coal at the rate of 1% or 2% and availed Cenvat Credit thereof.

2. The above mentioned issue has been confirmed in favour of the appellant by the Regional Advisory Committee, Hyderabad zone in its meeting held on 9th February, 2015. The committee resolved that since the subject

goods were levied to reduced rate of 2% CVD on their importation in terms of Section 3 of Customs Tariff Act, 1975 read with notification issued therein i.e. under Notification No. 12/2012-Cus. Dated 17.03.2013 and not under Notification No. 1/2011-CE which was not excluded from the purview of Rule 3 of Cenvat Credit Rules, 2004, it appears that the Cenvat Credit of CVD paid on imported coal (i.e. 2% adv.) under Notification No. 12/2012-Cus. Dated 17th March, 2013 is eligible for credit. Subsequently, a circular was issued in this respect. We also find that the same issue has been considered in a number of decision referred by the learned Counsel for the appellant.

3. Having considered the arguments of the learned Counsel for the appellant and the learned Authorised Representative for the department, we find that the appeal needs to be allowed and we do so. The appeal is allowed. Detailed order shall follow.

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

(Dr. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)

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