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

REGIONAL BENCH – COURT NO. 03

Excise Appeal No. 12189 of 2019

[Arising out of OIA-VAD-EXCUS-001-APP-93-2019-20 dated 30/05/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

Gujarat State Fertilizers & Chemicals Ltd **.....Appellant**
P.o. Fertilizernagar
Vadodara
Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-i **.....Respondent**
1ST FLOOR...CENTRAL EXCISE BUILDING,
Race Course Circle,
Vadodara,
Gujarat-390007

APPEARANCE:
Shri Willingdon Christian, Advocate for the Appellant
Shri Ghanshyam Soni, Joint Commissioner (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

FINAL ORDER NO.A / 10395 /2022

DATE OF HEARING: 26.04.2022
DATE OF DECISION: 26.04.2022

RAMESH NAIR

The issue involved in the present case is that whether the appellant is entitled for Cenvat Credit in respect of lightings, equipments and fixtures falling under Chapter 85 and 94. The Lower Authority have denied the Cenvat Credit on the ground that it is not used in relation to manufacture of the final product it is also contended by Lower Authority that as per definition of capital Goods Chapter 94 is not covered under the said definition.

2. Shri Willingdon Christian, Learned Counsel appearing on behalf of the appellant submits that in the present case during the relevant period the definition of the inputs amended and effective from 01.04.2011 is applicable. He submits that as per the said definition inputs means all Goods used in the factory by the manufacturer of final product. Therefore, even if any Goods

which is not covered under capital Goods will all under the definition of inputs as there is no dispute that the said Goods were used in the factory by the manufacturer of the final product. He alternatively submits that in any case Goods falling under Chapter 85 is clearly covered under the capital Goods. As regard the Goods falling under Chapter 94 being fixtures in terms of Clause (iii) of Clause A of definition of capital Goods in Rule 2(a), components and accessories of capital goods. All the Goods specified at (i) and (ii),also falling under the category of the rules for this reason also the appellant is entitled for Cenvat Credit. He placed reliance on the following judgments:

- 2016 (12) TMI 840 – CESTAT Steel Authority of India Ltd. Vs. CCE
- 2019 (27) GSTL 482 (Del.) Vodafone Mobile Service Ltd. Vs. CST
- 2016 (343) ELT 805 (T) Steel Authority of India Ltd. Vs. CCE & ST

3. Shri Ghanshyam Soni, Learned Joint Commissioner Authorized Representative appearing on behalf of the revenue reiterates the findings of the impugned order.

4. I have carefully considered the submissions made by both the sides and perused the records. I find that some of the Goods on which the appellant has availed the Cenvat Credit are undisputedly falling under Chapter 85 is clearly covered under the definition of capital Goods under Rule 2(a) of Cenvat Credit Rules, 2004. Therefore, the Goods covered under Chapter 85 is eligible for Cenvat Credit. As regard the Goods falling under Chapter 94, even if it is accepted that the same are not accessories, the said Goods are covered under definition of input which is reproduced below:

> *(K)- input means-*
>
> *"(i) all goods, except light diesel oil, high speed diesel oil and motor spirit, commonly known as petrol, used in or in relation to the manufacture of final products whether directly*

or indirectly and whether contained in the final product or not and includes lubricating oils, greases, cutting oils, coolants, accessories of the final products cleared along with the final product, goods used as paint, or as packing material, or as fuel, or for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production;
(ii) all goods, except light diesel oil, high speed diesel oil, motor spirit, commonly known as petrol and motor vehicles, used for providing any output service;
***Explanation 1.-** The light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol, shall not be treated as an input for any purpose whatsoever.*
***Explanation 2**.- Input include goods used in the manufacture of capital goods which are further used in the factory of the manufacturer; but shall not include cement, angles, channels, Centrally Twisted Deform bar (CTD) or Thermo Mechanically Treated bar (TMT) and other items used for construction of factory shed, building or laying of foundation or making of structures for support of capital goods;"*

From the reading of the definition of inputs with effect from 01.04.2011, all Goods used in the factory of the manufacturer are admissible inputs. In the present case there is no dispute that all the Goods were used by the manufacturer of final product in their factory. Therefore, the Goods falling under chapter 94 is clearly covered under the definition of inputs in terms of 2(a) of Cenvat Credit Rules. The judgment relied upon by the Learned Counsel are directly applicable to the facts of the present case. Therefore, I am of the considered view that appellant's are entitled for the Cenvat Credit on the Goods falling under chapter 85 as well as Chapter 94, hence the impugned order is not sustainable and the same is set aside. Appeal is allowed.

(Dictated & Pronounced in the open Court)

RAMESH NAIR

MEMBER (JUDICIAL)

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