Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO. 3

Excise No. 12332 of 2019

(Arising out of CCESA-SRT-APPEALS-PS-255-2019-20 Dated- 31/07/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT)

Meera Cotton & Synthetics Mills Pvt. Ltd. **........Appellant**
SURVEY NO 156/2, & 157/2, VILLAGE SURANGI
SILVASSA, DADRA & NAGAR HAVELI, SILVASSA
GUJARAT-396240

VERSUS

C.C.E. & S.T.-Daman **........Respondent**
3RD FLOOR ADHARSH DHAM BUILDING
GST BHAVAN, VAPI DAMAN ROAD,
CHALA VAPI, GUJARAT-396191

APPEARANCE:
Shri Uday B. Kadu, Advocate appeared for the Appellant
Shri. G. Kirupanandan, Authorised Representative for the Respondent

CORAM: HON'BLE MR. RAJU, MEMBER (TECHNICAL)

Final Order No. A/ 10410 /2022

DATE OF HEARING:05.05.2022
DATE OF DECISION:05.05.2022

RAJU

The appellant is in appeal against denial of refund of PLA balance lying in their account as on 30.06.2017. The impugned order denies the refund of the said amount citing the following reasons:

> "6. In this connection, I find that the transitional arrangements for taking input tax credit have been made vide Section 140 of Central Goods & Service Tax Act, 2017. The relevant portion is as under:
>
> Section 140(1) - A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, In his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day. furnished by him under the existing law in such manner as may be prescribed:
>
> Provided that the registered person shall not be allowed to take credit in the following circumstances namely:-
> (i) where the said amount of credit is not admissible as Input tax credit under this Act, or (ii) where he has not furnished all the returns required under the existing law for the period of six months Immediately preceding the appointed date; or
> (iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.
>
> 7. Plain reading of the above, find that there is no provision in CGST Act to carry forward the balance amount of Education Cess and Secondary &

Higher Education Cess in Tran-1. also find that there is no provision to refund the balance of Education and Higher Education Cess."

2. I find no merit in the said argument of the Commissioner (Appeals) as Section 140 of the CGST Act deals solely with Cenvat Credit. In any case, the provisions of Section 11B of the Central Excise Act were available to the authorities to take care of such refunds which arise under the erstwhile Central Excise law. The impugned order is set aside and original adjudicating authority is directed to examine the case under Central Excise Act for the purpose of grant of the said refund.

(Dictated & Pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

Neha