

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

REGIONAL BENCH – COURT NO. 03

SERVICE TAX Appeal No. 10748 of 2021-SM

[Arising out of Order-in-Original/Appeal No AHM-EXCUS-003-APP-8-2021-22 dated 29.04.2021 passed by Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD]

INDUSTRIAL EXTENSION BUREAU

...Appellant

Block No 18 2nd Floor Udhogbhavan Sector 11
Gandhinagar,
Gujarat-382010

VERSUS

C.S.T.-SERVICE TAX - AHMEDABAD

...Respondent

7 Th Floor, Central Excise Bhawan, Nr. Polytechnic
Central Excise Bhavan, Ambawadi,
Ahmedabad,
Gujarat-380015

APPEARANCE:

Shri Bishan R. Shah, CA for the Appellant
Shri. Tara Prakash, Assistant Commissioner (Authorized Representative) for the Respondent

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

FINAL ORDER NO.A / 10067 /2023

DATE OF HEARING: 12.01.2023

DATE OF DECISION: 19.01.2023

RAMESH NAIR

The brief facts of the case are that a demand of Rs.17,59,069/- was raised against the appellant on the ground that as per the ST-3 return as of June, 2017, the closing balance of Cenvat Credit comes to Rs. 1,01,53,009/-, whereas the appellants have shown the closing balance of Rs. 1,19,12,078/, accordingly, the demand was confirmed. The same was upheld by the Learned Commissioner (Appeals), therefore, the present appeal has been filed.

2. Shri Bishan R. Shah, Learned CA submits that due to system glitches, the credit of Rs. 31,67,294/- could not be updated in the ST-3 returns. Due

to which the difference has arisen. If the input credit instead of Rs. 14,45,546/- mentioned in the ST-3 returns, the correct amount of Cenvat credit of Rs. 31,67,294/- is taken then the closing balance comes to Rs. 1,18,74,757/-. He submits that in fact actual excess closing balance is Rs. 37,321/- only which has been paid along with interest by the appellant. Therefore, the present demand is not sustainable. He submits that all the details of credit of Rs. 31,67,294/- along with invoices were submitted before the Commissioner (Appeals). However, the Commissioner (Appeals) has rejected the submission on the ground that there is no evidence that the appellant have not taken the credit earlier. It is his submission that without any basis the Learned Commissioner (Appeals) has discarded the evidence as produced before him. He submits that the appellant is a Government Organizing, therefore, no doubt can be raised on the credibility of the appellant, for this reason also Learned Commissioner (Appeals) raising the doubt is without any basis.

3. Shri Tara Prakash, Learned Additional 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 the demand was raised on the difference of Cenvat credit balance shown as of June, 2017, in their ST-3 returns and the actual closing balance. The claim of the appellant is that certain Cenvat credit was left to be shown in ST-3 returns for the month of June, 2017, If the same is considered the difference will come to only Rs. 37,321/-, which the appellant have admittedly paid back along with interest. Now the limited issue to be resolved is whether the credit claimed by the appellant for Rs. 31,67,294/- is correct or otherwise. In this regard on perusal of the original order as well as other documents, We find that appellant have submitted statement, wherein

complete details was given about the Cenvatable documents. It is also observed that the balance of Cenvat Credit considering the credit of Rs. 31,67,294/- was also declared in the books of accounts by the appellant. This evidence cannot be brushed aside on the presumption that the appellant might have taken the credit earlier unless it is proved by the revenue. Therefore, in my considered view the detail submitted by the appellant along with copies of invoices no doubt can be raised that the appellant were entitled for the Cenvat credit of Rs. 31,67,294/- on consideration of this credit the balance remains is only Rs. 37,321/- which has been paid along with interest, with this payment there is no demand exist. Accordingly I am of the considered view that appellant are entitled for the Cenvat credit of Rs. 31,67,294/- . Consequently, the demand raised in the impugned order except the demand of Rs. 37,321/- , does not sustain. Hence the impugned order stands modified to the above extent. The appeal is allowed with consequential relief.

(Pronounced in the open Court on 19.01.2023)

**RAMESH NAIR
MEMBER (JUDICIAL)**