

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

REGIONAL BENCH - COURT NO. 3

EXCISE Appeal No. 10187 of 2019-SM

[Arising out of Order-in-Original/Appeal No CCESA-AUDIT-SRT-VK-146-2017-18 dated 29.06.2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I]

DKNV Engineering Pvt Ltd

.... Appellant

Survey No. 7/2, Kapadia Farm, Khanvel Road, Masat,
Silvassa, Dadra & Nagar Haveli-396230

VERSUS

Commissioner of Central Excise & ST, Daman

.... Respondent

3rd Floor, Adarsh Dham Building, Vapi-Daman Road,
Opp.Vapi Town Police Station, Vapi, Gujarat-396191

APPEARANCE :

None for the Appellant

Shri J. A Patel, Superintendent (AR) for the Respondent

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

DATE OF HEARING /DECISION: 13.06.2022

FINAL ORDER NO. A/10695 / 2022

RAMESH NAIR :

The limited issue involved in the present case is that the Revenue denied Cenvat credit availed on the strength of Xerox copies of the purchase invoices.

2. When the matter was called, none appeared on behalf of the appellant.

3. Shri J. A Patel, learned Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order. He submits that the appellant was supposed to take Cenvat credit on the original copies of the invoices, therefore, the department has rightly denied the credit availed on photocopies. He placed reliance on the following judgments:-

(a) 2008 (223) ELT 83 (Tri. Del.) – CCE, Raipur vs. Vandana Energy & Steel P. Limited

(b) 2013 (296) ELT 365 (Tri. Ahmd.) – Hi-Tech Inks P Limited vs. CCE, Daman

(c) 2004 (175) ELT 543 (Tri. Mumbai) – Paranjape Metal Shapers P Limited vs. CCE, Aurangabad

(d) 2014 (314) ELT 221 (Tri. Bang.) – CNC India Tools & Service P Limited vs. CCE, Bangalore

4. I have heard the learned Authorised Representative and perused the record. I find that the credit was denied only on the basis that appellant failed to produce original copy of invoices. However, there is no dispute as regards the purchase of goods and use thereof in the manufacture of final product. The goods is entered in the purchase accounts and therefore, purchase of goods, receipt and use thereof in the manufacture of final products is not disputed. Merely because the original copy of invoice is not available, it cannot alter the important criteria of availing the credit when it is satisfies other criteria. Though the Revenue has relied upon the judgments but there are direct judgments in favour of the appellant also which are cited below:-

(a) CCE & Cus, Vadodara-II vs. Steelco Hujarat Limited – [2010] 3 Taxmann.com 388.

(b) Pepsiso India Holding P. Limited vs. CCE Mumbai – [2017] 77 Taxmann.com 299.

(c) CCE, Kolahpur vs. Shah Precicast P. Limited – [2012] 25 Taxmann.com 299 (Mumbai. CESTAT).

(d) Dalmia Cement (Bharat) Limited vs. CCE, Trichy - [2016] 65 Taxmann.com 121 (Chennai. CESTAT).

5. On going through the judgments, it is settled that availment of credit on the strength of photo copies of the invoices is just a procedural lapse and

cannot be made the basis to disallow the credit. For this reason, in the absence of any evidence that appellant had not received the goods, credit cannot be denied. Therefore, I am of the view that reasons for denial of credit is not sustainable. Accordingly, the impugned order is set-aside and the appeal is allowed.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

KL