(2023) 10 CESTAT CK 0046

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Excise Appeal No. 11945 Of 2014

Sunrise Containers Ltd APPELLANT

Vs

C.C.E. & S.T.-Vapi RESPONDENT

Date of Decision : 26-10-2023

Acts Referred:

Citation : (2023) 10 CESTAT CK 0046

Hon'ble Judges : Raju, Member (T)

Bench : Single Bench

Advocate : S J Vyas, Anoop Kumar Mudvel

Final Decision : Allowed

Judgement

Raju, Member (T)

1. This appeal has been filed by M/s. Sunrise Containers Pvt Ltd against denial of remission of duty on account of finished goods lost in fire.

2. Learned Counsel pointed out that the appellant had fire in their premises resulting in loss of certain finished goods. The appellant applied for remission of the Central Excise Duty on the finished goods before the Commissioner. The Commissioner asked the appellant to give undertaking that they will not been claiming the amount of Central Excise Duty payable from the insurance authority. The appellant refuse to give said undertaking of not approaching to the insurance authorities for cleaning the benefit of insurance on the duty of finished goods lost in fire. The Commissioner therefore denied the remission of Central Excise duty on the finished goods destroyed in fire.

2.1 Learned Counsel pointed out that subsequent to this denial the appellant had approached the insurance authority with their claim of the amount of duty payable on finished goods. The insurance authorizes rejected the said claim, however they have granted the claim in respect of CENVAT admissible in the said finished goods. Learned Counsel also pointed out that Hon’ble High Court of

Panjab & Hariyana has taken judicial notice of the fact that the Insurance Company never allow the payment in respect of the duty payable on finished goods lost in accident. He relied on the decision of Hon'ble High Court of P & H as reported at 2015 (315) ELT 357(P&H).

3. Learned AR relied on the impugned order.

4. I have considered the rival submissions. I find that the benefit of remission has been denied on the ground that the appellant was approaching the insurance Companies for claiming the amount of duty payable on the finished goods. Subsequent to the impugned order, the said claim of the appellant has been denied however benefit in respect of CENVAT Credit involved in the destroyed goods has been allowed. Since these developments have happened subsequent to the passing of the impugned order, I deem it necessary that the said issue can be decided once again by the Commissioner taking note of the new developments.

5. In view of above, I set aside the impugned order and remand the matter back to the original Adjudicating Authority for fresh decision in light of new developments.

6. Appeal is allowed by way of remand.