**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

231 **CWP-11697-2020**
Date of decision: 28.02.2023

M/S KHANNA PAPER MILLS LTD.. …. Petitioner
Versus
UNION OF INDIA AND ANR. …. Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Amar Pratap Singh, Advocate and
Mr. Ankit Awal, Advocate for the petitioner.

Mr. Rishab Kapoor, Advocate for the respondents.

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RITU BAHRI, J. (oral)

The petitioner is seeking quashing of the order dated 11.04.2017 (Annexure P-17) whereby, the Designated Committee-respondent No.2 has dismissed the application of the petitioner made under the Sabka Viswas (Legacy Dispute Resolution) Scheme, 2019.

The petitioner has set up a factory registered under the Companies Act, 1956 and before the implementation of GST, it was registered under the Central Excise Act, 1944. The petitioner-Company is manufacturing paper, paper board and newsprint which used to fall under Chapter 48 of the First Schedule to the Central Excise Tariff Act, 1985.

It is contended that due to circumstances beyond the control of the petitioner, a fire broke out in the factory on 12.06.2012 and as a result of the same, a quantity of 17,384 MTs of Work in Progress (WIP) material in the grade paper, paper board and newsprint, among other materials was completely destroyed. This information was given to the Superintendent, Central Excise Range, Amritsar vide letter dated 13.06.2012 (Annexure P-1). The petitioner has also sent a letter dated 24.08.2012 (Annexure P-2) to the same officer giving description and quantity of raw material and semi-finished goods that got destroyed. Thereafter, the petitioner made an application dated 26.02.2013 (Annexure P-3) under Rule 21 of the Central Excise Rules for taking benefit of remission, but the same was rejected vide order dated 14.11.2018 (Annexure P-9).

The grievance of the petitioner in the present petition is that before rejection of this application vide order dated 14.11.2018 (Annexure P-9), the petitioner had reversed the CENVAT credit of Rs.1,15,35,632/- and this information was given vide letter dated 06.01.2018 (Annexure P-8) to the Assistant Commissioner, Central Goods and Service Tax Division, Amritsar. The petitioner has also placed on record a copy of RG-23 at page No.108 and 109 of the paperbook to show that CENVAT credit was reversed on account of pendency of remission of duty. This fact has been mentioned in paragraph 10 of the writ petition as well as paragraph 15 where information has been sent vide letter dated 06.01.2018 (Annexure P-8).

In the written statement, the respondents did not dispute with regard to paragraphs 10 and 15 of the writ petition.

Since these facts are not being disputed by the respondents in the written statement, the impugned order dated 14.11.2018 (Annexure P-9), whereby, the application for remission has been rejected, it has been observed in para 3.7 at page No.157 of the paperbook that the Assistant Commissioner has conveyed in his report that nowhere in the remission application, the applicants have submitted that they have reversed the CENVAT credit involved in the inputs used in manufacture of WIP goods alleged to have been destroyed in the fire as per Para 2.4 , Chapter 18 of the CBEC Excise Manual and CBEC Circular dated 01.10.2004. This order was passed on 14.11.2018 and the petitioner has reversed the CENVAT credit as is evident from the letter dated 06.01.2018 (Annexure P-8). Even though in the order dated 14.11.2018 (Annexure P-9) it has been observed that they have not disputed that the CENVAT credit has been reversed by the petitioner and even while passing this order, they are not disputing this fact. Since this fact was in the knowledge of the respondent while rejecting his application for remission and while passing order 14.11.2018 (Annexure P-9), even then in this order, it has been observed that the applicant did not give any detail of credit taken reversed and inputs used in the material with respect to which they have sought remission. The letter (Annexure P-8) was in the knowledge of the Department and reversal was made in the November-December 2016. There has been miscommunication and lack of knowledge since this reversal order was made in the year 2016 and information was sent in the year 2018 vide letter dated 06.01.2018 (Annexure P-8) by way of an application under the Scheme, but the Designated Committee has not considered this aspect while rejecting the application of the petitioner under the Scheme by taking into account that the CENVAT credit has been reversed and information has been sent to the Authorities vide Annexure P-8.

The petition is allowed and order of the Designated Committee dt.11.04.2017 is being set aside and matter is remanded back to the Designated Committee to pass afresh order after examining the information that CENVAT credit has been reversed by the petitioner as is evident from letter dated

06.01.2018(Annexure P-8) and in this letter it was clearly mentioned that CENVAT credit was reversed in the year 2016.

The petitioner will be given an opportunity of hearing by the Designated Committee when he will produce the original documents to it to show that CENVAT credit was reversed under RG-23A for remission of duty. However, fresh order can be passed in accordance with law within 6 weeks.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
28.02.2023 **JUDGE**
Jyoti-IV

Whether speaking/reasoned: Yes/No.
Whether reportable : Yes/No