

GIB/CH/ AGRO LIFE SCIENCES/26.04.2021/OTHERS-25

Others Category : CENVAT CREDIT

State : Chandigarh

Order No.: GIB/CH/ AGRO LIFE SCIENCES/26.04.2021/OTHERS-25

Name of Entry :

M/S AGRO LIFE SCIENCES CORPORATION LTD

Date : 26-04-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

The facts of the case are that the appellant is located in the state of Jammu & Kashmir and was availing the benefit of exemption Notification No. 01/10-CE dated 06.02.2010. The appellant procured certain inputs and availed credit of duty paid on these inputs. The case of the Revenue is that during the relevant period i.e. July 2012 to January 2014, the appellant was not entitled to avail cenvat credit against the inputs procured by the units, who are availing exemption under Notification No. 01/10-CE dt. 06.02.2010 and after introduction of Notification No. 02/14-CE (N.T.) dt. 20.01.2014 on which the Notification No. 01.10-CE dt. 06.02.2010 was amended thereafter the credit was available to the appellant. The matter was adjudicated, the credit availed by the appellant was denied.

The appellant is in appeal against the impugned order wherein the credit has been denied to them on the premise as per Notification No. 02/14-CE (N.T) dt. 20.01.2014, the appellant was not entitled to avail credit prior to the Notification No. 02/14 (N.T) dt. 20.01.2014 in terms of Notification No. 01/10-CE dt. 06.02.2010.

Decision of Advance Ruling Authority :

DECISION:

There is no provision in law for the appellant to file invoices before the department in time. In these circumstances, it is found that as the assessee was allowed credit by the adjudicating authority although the revenue has filed appeal against those orders before the Commissioner (Appeals). In these circumstances, when the adjudicating authorities are having a divergent view, the extended period of limitation is not invocable in the facts and circumstances of this case. Admittedly, in the case in hand, the show cause notice has been issued by invoking extended period of limitation, therefore, the denial of credit is barred by limitation.

Appeal allowed - decided in favor of appellant.