CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

Excise Appeal No. 40795 of 2017

(Arising out of Order-in-Appeal No.275/2016 (CXA-I) dated 30.11.2016 passed by Commissioner of Central Excise (Appeals-I), Chennai)

M/s. Stanadyne India (P) Ltd., **....Appellant**
Formerly Known as
M/s. Stanadyne Amalagamations (P) Ltd.,
No.96NA, Poonamalle Road,
Aranvoyal Gillage,
Thiruvallur-602 025.

Versus

Commissioner of GST & Central Excise **... Respondent**
Chennai Outer Commissionerate
Newry Towers, No.2054, I Block,
II Avenue, 12th Main Road,
Anna Nagar, Chennai-600 040.

APPEARANCE:

Shri M. Karthikeyan, Advocate for the Appellant
Shri M. Selvakumar, Authorised Representative for the Respondent

CORAM:
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No.40564/2025

DATE OF HEARING: 29.01.2025
DATE OF DECISION: 30.05.2025

Per: Shri P. Dinesha

It is the case of the appellant that they are engaged in the manufacture of internal combustion, engine pump, filter, injectors, etc. falling under chapter 85 of the Central Excise Tariff Act, 1985. They were functioning as an Export Oriented Unit [`**EOU**" for short]; they appear to have de-bonded their 100% EOU on 05.09.2013 after paying appropriate duty and converted the same into a Domestic Tariff Area [`**DTA**' for short] unit with the same excise registration. It appears that they had a balance CENVAT credit lying in their account as at the end of August, 2013 which they sought to carry forward as opening balance in their ER – 1 return for the month of September 2013.

2. It appears that the Revenue apprehending that the appellant had contravened Rule 3 of Cenvat Credit Rule, 2004 by carrying forward the accumulated credit which, according to them, had lapsed owing to the absence of any provision under Central Excise Act, 1944 or Cenvat Credit Rule, 2004 for transferring the same and hence, a Show Cause Notice dated 17.01.2014 issued proposing to recover the said credit under Rule 14 of CCR, 2004 read with Section

11A(1) of CEA, 1944 along with appropriate interest and penalty. From the record, it appears that the appellant filed its reply justifying the carrying forward of the accumulated credit but not satisfied with the explanation, the Original Authority *vide* Order-in-Original No. 01/2016 dated 20.01.2016 confirmed the demands as proposed in the SCN. Seriously aggrieved by the above demands, it appears that the appellant filed its first appeal before the Commissioner (Appeals) but, the First Appellate Authority also having upheld the demands in the Order-in-Original thereby dismissing their appeal *vide* impugned Order-in-Appeal No. 275/2016 (CXA-I) dated 30.11.2016, the present appeal has been filed before us.

3. Heard Shri M. Karthikeyan, Ld. Advocate for the Appellant and Shri M. Selvakumar, Ld. Assistant Commissioner for the Respondent, we have carefully gone through the orders of Lower Authorities and we have also gone through the judicial announcements relied upon by during the course of arguments before us. Upon hearing both the sides, the only issue that we need to consider is, "Whether the impugned order is sustainable in law"?

4. From the orders/judgement referred to during the course of arguments, we find that for an apparently earlier period, the Hon'ble Madras High Court in the appellant's own case had held that the order of the Tribunal insofar as denying the benefit of accumulated credit being carried forward to be utilised by the DTA is concerned was incorrect and accordingly, *vide* its judgement reported in 2019 (8) TMI 572-Madras High Court [2019 (29) G.S.T.L. 605 (Mad.)] dated 06.08.2019, allowed the CMA.

5. From the facts narrated in the said judgement, we find that the present appellant which was admittedly a 100% EOU also paid the duties upon de-bonding on 23.02.2012 and became a DTA unit. In the present case also, as could be gathered from the facts narrated in the appeal memorandum, the appellant became ADTA unit after de-bonding and after paying appropriate duty on 05.09.2013. From the above, it is not clear to us as to how the appellant could de-bond its EOU twice. From the facts narrated in the statement of facts, synopsis filed during arguments and also from the discussions in the orders of

Lower Authorities, there is no mention about the multiple units/EOUs being held by the appellant. We also do not have materials on record as to the number of EOUs held by the Appellant. This factual clarification which is not forth-coming from the record.

6. In view of the above, we are of the view that the above requires clarity as regards the factual matrix is concerned since the case and the issue has not been analysed from this perspective, apparently because the Lower Authorities were not having the benefit of the judgement of the Hon'ble Madras High Court - *supra* in the Appellant's own case. If it is the case of the appellant that they had different/multiple EOUs, then the judgement of the Hon'ble High Court -*supra* would squarely apply to the legal issue involved in which event, there would no room for the Revenue to deny the benefit of carrying forward of the accumulated credit to the DTA unit as held by the High Court, which is binding on the Lower Authorities.

7. Therefore, we set aside the impugned order and remit the matter back to the file of Original Authority, who shall

get the factual clarifications as indicated by us above and, then, pass de-novo Order-in-Original in accordance with the binding decision rendered by the High Court *supra*.

8. The appeal stands disposed of as indicated above.

(Order pronounced in open court on 30.05.2025)

(M. AJIT KUMAR)
Member (Technical)

(P. DINESHA)
Member (Judicial)

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