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

REGIONAL BENCH – COURT NO. 02

Service Tax Appeal No. 10104 of 2014-SM

[Arising Out Of OIA-209-2013-AHD-II-CE-AK-COMMR-A—AHD Dated-31/10/2013 Passed By Commissioner of Central Excise-AHMEDABAD-II]

Arvind Limited **.....Appellant**

Naroda Road, Ahmedabad
Ahmedabad, Gujarat

VERSUS

C.C.E.-Ahmedabad-ii **.....Respondent**

Custom House... First Floor,
Old High Court Road, Navrangpura,
Ahmedabad, Gujarat-380009

WITH

1. **Service Tax Appeal No. 10105 of 2014 (Arvind Limited)**
2. **Service Tax Appeal No. 10106 of 2014 (Arvind Limited)**
3. **Service Tax Appeal No. 10107 of 2014 (Arvind Limited)**
4. **Service Tax Appeal No. 10108 of 2014 (Arvind Limited)**

[Arising Out Of OIA-209-2013-AHD-II-CE-AK-COMMR-A—AHD Dated-31/10/2013 Passed By Commissioner of Central Excise-AHMEDABAD-II]

APPEARANCE:
Shri. S. J. Vyas, Advocate for the Appellant
Shri. Sanjay Kumar, Superintendent (Authorized Representative) for the Appellant

CORAM: HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA

FINAL ORDER NO. A / 12672-12676 /2023

DATE OF HEARING:30.11.2023
DATE OF DECISION:30.11.2023

SOMESH ARORA

These are refund matters emanating from the exports of goods including portion of the services involved, made by the appellants. While considering the same, lower authorities disallowed the refund claim on the ground that drawback was claimed in the matter and drawback and refund cannot be simultaneously claimed.

2. Learned Advocate appearing on behalf of the appellant takes this Court through the documents filed including annexures, wherein they indicated that the claim was of DEPB and not drawback, therefore, there is factual error which is apparent in the order of the lower authority and their claim is not examined properly as DEPB and refund claim can co-exist.

3. Learned AR after getting convinced about the point made by the advocate, seeks remand on the ground that the matter needs a fresh look as now the claim stands on the different footing from what was decided by the lower authorities.

4. Considered, as per the submissions made by the learned advocate, the shipping bill filed in the instant case was of DEPB and no claim of drawback was ever made. Therefore, it appears that the findings and the basis of the same are incorrect. Matter is therefore remanded back to the original authority to have a look at the claim made before him by the party and as submitted before us that the claim was of DEPB and never drawback. Matter is remanded accordingly.

4. Appeal is allowed by way of remand.

(Dictated and pronounced in the open Court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi