Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO. 1

Excise Appeal No. 10802 of 2017
(Arising out of Order No. RAJ-EXCUS-000-APP-111-112-16-17 dated 26.12.2016 passed by Commissioner (Appeals-III)-Rajkot)

Alltech Technocast Pvt Ltd. **...Appellant**
Survey No. 1, Behind Tip Top Forging,
Shapar, Veraval-Gujarat

VERSUS

C.C.E & S.T. – Rajkot **...Respondent**
Central Excise Bhavan, Race Course
Ring Road, Income Tax Office
Rajkot-Gujarat- 360001

AND

Excise Appeal No. 10803 of 2017
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Central Excise Bhavan, Race Course
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Rajkot-Gujarat- 360001

APPEARANCE:
Shri Vikas Mehta, Consultant appeared for the Appellant
Shri M.P. Solanki, Assistant Commissioner (AR) appeared for the Respondent

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

FINAL ORDER NO. 10081-10082 /2025

DATE OF HEARING: 31.01.2025
DATE OF DECISION: 03.02.2025

SOMESH ARORA

In this instant case matters involve two refund cases, one in Appeal No. W/10802/2017 for the period June 2014 to September 2014 and the other one bearing appeal No. E/10803/2017, the period involved being from October 2014 to December 2012 and the amount of refund involved is Rs. 9,82,083/. Appellant had filed refund claims under Rule 5 of Cenvat Credit Rules, 2004 read with notification No. 27/2012-CE(NT) dated 18.06.2012 for refund of utilization Cenvat Credit on account of clearance to 100% EOU without any payment of duty. Refund claim in respect of Quarter ending September, 2014 was filed on 24.09.2015 whereas for Quarter ending December, 2014 was filed on 11.12.2014, i.e. within 01 year of expiry of the quarter. Both claims were rejected on the ground that the same were filed after expiry of one year, i.e. time limit prescribed under Section 11B of Central Excise Act, 1944.

2. Aggrieved by the order of the authorities below, the advocate for the appellant pleads that the matter is covered by the decision of M/s USV Ltd. vs C.C.E. & S.T. Daman reported in 2022 (9) TMI 389-CESTAT-Ahmedabad wherein it was interalia, held that refund claim under Rule 5 of Cenvat Credit Rules, 2004 filed within one year of end of the quarter is involved and is therefore allowable.

3. Learned authorized representative, on the other side, seeks to rely upon the order of Hon'ble Madras High as reported in 2012 (28) STR 426 (Madras) in the matter of Commissioner of Central Excise, Coimbatore vs GTN Engineering (I) Ltd. wherein it was held that the one year period under Section 11B is to be determined by applying Rule 5 of Cenvat Credit Rules, 2004 and the limitation within Rule 5 has to be subjected to Section 11B as by itself Rule 5 does not prescribe any specific relevant date. Therefore, the relevant date will also be from the date of clearance of goods or export.

4. Confronted with this decision, the learned advocate seeks to rely on the decision of 2019 (2) TMI 378-CESTAT-Bangalore in the matter of M/s Kumaraswamy Mineral Exports vs CCE & ST – Belgaum in which in para 5.4 the decision of Hon'ble Madras High Court in GTN Engineering Industries was also considered and same was distinguished in view of specific relevant date having been given in the Notification itself which aspect, the Hon'ble Bench considered was not taken into consideration by Hon'ble Madras High Court. He further reinforced his arguments by stating that Hon'ble Ahmedabad Bench has also in the case of USV Ltd (cited supra) considered and relied upon the decision of M/s Kumaraswamy Mineral Exports (supra) and decided the matter in favour of the party.

5. This court has considered the adversarial arguments. In view of the stated position and the case of GTN Engineering, having been distinguished the party becomes entitled to the refund on the basis of cited decisions of Tribunal. Same is therefore, allowed, as per law. Appeals are allowed.

(Order Pronounced in the open court on 03.02.2025)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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