IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No.E/70138/2018-EX[SM]

(Arising out of Order-in-Appeal No. MRT/CX/000/APPL-MRT/199/2017-18 dated 26/10/2017 passed by Commissioner, CGST (Appeals), Meerut)

M/s Daurala Sugar Works, **Appellant**

Vs.

Commissioner of Central GST & C.E., Meerut **Respondent**

Appearance:

Shri S.C. Kamra & Shri Kartikeya Narain, Advocates for Appellant
Shri Sandeep Kumar Singh, Deputy Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 15/06/2018
Date of Decision : 15/06/2018

FINAL ORDER NO-**71114 / 2018**

Per: Anil G. Shakkarwar

The present appeal is arising out of Order-in-Appeal No. MRT/CX/000/APPL-MRT/199/2017-18 dated 26/10/2017 passed by Commissioner, CGST (Appeals), Meerut.

2. The brief facts leading to filing of present appeal before this Tribunal are that the Commissioner (Appeals) has passed impugned Order which dealt with claim of refund of Rs.39,78,832/- which was reversed in the Cenvat Account under provisions of Sub-rule (3A) of Rule 6 of Cenvat Credit

Rules, 2004 during the period from 2009-10 to 2013-14 (up to January, 2014). Covering the said period, the demand under Sub-rule 3 of Rule 6 was raised against the appellant which was challenged before the Hon'ble High Court of Allahabad. Hon'ble Allahabad has quashed the said show cause notice dated 25.04.2014 on 18.08.2015. The appellant claimed refund of said amount which was debited by appellant on their own account. The refund was rejected under limitation by the original authority. The Order of Original Authority was challenged before the Commissioner (Appeals). The learned Commissioner (Appeals) also rejected the refund on limitation. Aggrieved by the said order, appellant preferred present appeal before this Tribunal.

3. Heard the learned Counsel for appellant who have submitted that they had submitted a written submission before the learned Commissioner (Appeals) on 12.09.2017 and they contended before learned Commissioner (Appeals) in para-9 of said written submission that for the subsequent period in similar circumstances they had deposited Rs.1,83,560/- by way of reversal of Cenvat credit during the period from March, 2014 to December, 2014 and similar show cause notice demanding Rs.1,14,09,360/- under said Rule 6 (3) was issued to them which was dropped by the Commissioner and subsequently, the amount debited by the appellant was refunded by the Assistant Commissioner vide

Order dated 18.08.2017. He further contended that revenue cannot adopt different standers for different periods.

4. Heard the learned A.R. for revenue, who has supported the impugned Order-in-Appeal.

5. I have carefully gone through the case records and I find that the learned Commissioner (Appeals) has not given any finding on said submissions covered by para-9 of written submission filed before him. The learned Commissioner (Appeals) should have considered all submissions before him and given his decision on acceptance or rejection grounds raised before him. I, therefore, do not find impugned order to be sustainable. Accordingly, I set aside the impugned order and remand the matter back to the Commissioner (Appeals) to consideration of said submissions under said para-9 and any other submission and give a reasoned order.

6. Accordingly, the appeal is allowed by way of remand, as indicated hereinabove.

(Dictated in Court)

(Anil G. Shakkarwar)
Member (Technical)

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