

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

APPEAL No.E/2524/2012-EX[DB]

(Arising out of Order-in-Appeal No. 154-CE/APPL/NOIDA/2012 dated 21/06/2012 passed by Commissioner of Central Excise & Customs (Appeals), Noida)

Commissioner of Central Excise, Noida

Appellant

Vs.

M/s Dharampal Satyapal Ltd.

Respondent

Appearance:

Shri Mohammad Altaf, Assistant Commissioner (AR)
Shri Kartikeya Narain, Advocate

for Appellant
for Respondent

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 25/05/2018
Date of Decision : 25/05/2018

FINAL ORDER NO-71156/2018

Per: Archana Wadhwa

Being aggrieved with the order passed by Commissioner (Appeals) revenue has filed the present appeal.

2. After hearing both the sides, we find that the rebate claim sanctioned to the respondent was adjusted by the Original Adjudicating Authority against and confirmed the demand. However, on appeal Commissioner (Appeals) held

that rebate has been sanctioned independently without adjustment. Hence, the present appeal by Revenue.

3. At this stage we note that the demand against which the rebate claim was adjusted stands set aside by the Tribunal by its Final Order No.70618-70624/2017 dated 13.06.2017 and the matter stands remanded. The effect of the remand leads to a situation as if there is no confirmed outstanding demand against the assessee, thus justifying any adjustments.

4. We also note that an identical appeal of revenue against the same issue stands rejected by the Tribunal against the same assessee vide its Final Order No.70081-70085/2018 dated 04.01.2018. As such we find no merits in the present appeal of revenue also and the same is rejected.

(Dictated in Court)

(Anil G. Shakkarwar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

akp