IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

APPEAL No. E/70017-70020/2018-EX[SM]

(Arising out of Order-in-Appeal No. NOI/EXCUS/000/APPPL165-168/2014 dated 30/09/2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Noida)

M/s Dharampal Satyapal Ltd. **Appellant**

Vs.

Commissioner of CGST & Central Excise, Noida **Respondent**

Appearance:

Shri Kartikeya Narain, Advocate, for Appellant
Shri Gyanendra Kumar Tripathi, Deputy Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 25/01/2019

FINAL ORDER NO. **70134-70137/2019**

Per: Anil G. Shakkarwar

Above stated four appeals are taken together for decision since the same are arising out of common impugned Order-in-Appeal No. NOI/EXCUS/000/APPPL165-168/2014 dated 30/09/2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Noida.

2. After hearing both the sides duly represented by learned Advocate – Shri Kartikeya Narain on behalf of appellant and Shri Gyanendera Kumar Tripathi - learned Deputy Commissioner on behalf of Revenue and on perusal of the facts on record, I note that the appellant had claimed rebate of amount such as Rs.1,79,900/-, Rs.10,505/-, Rs.4,085/-,

Rs.2,097/-, and the same were granted by the Original Authority and the said amounts were appropriated against the demand of Rs.3,91,19,765/- confirmed against the appellant by Commissioner of Central Excise, Noida in Order-in-Original dated 24.12.2010. The learned Commissioner (Appeals) has rejected the appeal filed before him on the ground that the said demand was confirmed against the appellant and recovery was due. I note that learned Counsel for the appellants have submitted a copy of Final Order No. 70221-70231/2018 dated 16.01.2018 which squarely covers the issue. As per the said Final Order the said demand of Rs.3,91,19,765/- was agitated before this Tribunal in Appeal No. E/789/2011 & E/1001-1006/2010 and the matter was remanded to the Original Authority for fresh consideration by setting aside the Order-in-Original through which said demand was confirmed. I note that as on date there is no confirm demand against the appellants. Therefore, there is no justification in appropriation of above stated amounts. Under those circumstances impugned order does not sustain. I, therefore, set aside the impugned order and allow all the four appeals.

(Dictated in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Ansari