FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 09/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70081-70085/2018-EX[DB] dated 04/01/2018

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/593/2012	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
2	E/739/2012	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
3	E/740/2012	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
4	E/741/2012	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
5	E/2987/2011	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307

Name and Address of Respondent

6 Dharampal Satyapal Ltd.
B-1, Sector-3, Noida.,,

7 Dharampal Satyapal Limited
B-1, Sector-3, Noida.,,

8 Dharampal Satyapal Limited
B-1, Sector-3, Noida.,,

9 Dharampal Satyapal Limited
B-1, Sector-3, Noida.,,

10 Dharampal Satyapal Limited
B-1, Sector-3, Noida.,

Other Appellants and Respondents as per Annexure

Copy To

11 Advocate(s) / Consultant(s):

T. R. Rustagi,Advocate
SD-84, TOWER APARTMENTS,
PITAMPURA,
DELHI
110034

12 Bar Association, CESTAT, Allahabad

13 Director Publications, Customs, Excise. I.P. Estate, Delhi

14 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

15 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

16 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

17 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

18 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

19 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

20 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

21 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

22 C.D.R. 23 Office Copy 24 Second Folder Copy 25 Guard File

Asstt. Registrar

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

APPEAL Nos.E/739-741, 593/2012 & 2987/2011-EX[DB]

(Arising out of Orders-in-Appeal Nos. 286-288-CE/APPL/NOIDA/11 dated 13/12/2011, Order-in-Appeal No. 12-CE/APPL/NOIDA/12 dated 12/01/2012 & Orders-in-Appeal Nos. 202-204-CE/APPL/NOIDA/11 dated 15/09/2011 all passed by Commissioner of Central Excise & Customs (Appeals), Noida)

Commissioner of Central Excise, Noida **Appellant (s)**

Vs.

M/s Dharampal Satyapal Ltd. **Respondent (s)**

Appearance:

Shri Pawan Kumar Singh, Supdt (AR) for Appellant (s)
Shri T.R. Rustogi, Advocate for Respondent (s)

CORAM:

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

Date of Hearing	:	04/01/2018
Date of Decision	:	04/01/2018

FINAL ORDER NOs. 70081-70085/2018

Per: Archana Wadhwa

All the appeals filed by the Revenue are being disposed of by a common order, as they are arising out of the same impugned order.

2. As per the facts on record, brief facts of the case are that appellant filed their rebate claim under Rule 18 of the Central Excise Rules, 2002. The rebate claim were

A Wadhwa

sanctioned but the amount of sanctioned rebate claim have been adjusted against the demand pending against the appellant vide the adjudication order dated 24.12.2010. Aggrieved with the said order, appellant filed appeal before Commissioner (Appeals) who held that the amount cannot be adjusted, therefore, the order of appropriation was set aside. Hence, the present appeals by the Revenue.

3. We have heard both the sides duly represented by Shri Pawan Kumar Singh, Supdt. (AR) for Appellant-Revenue and Shri T.R. Rustogi, Advocate for Respondent-assessee.

4. We note that an identical appeal of the revenue against the same impugned order stands rejected by this Tribunal vide its Final Order No.A/50244/2015-EX[SM] dated 22.01.2015. We also further note that the order confirming the demand against which the sanctioned refund claims were adjudicated, no longer survives and stands set aside by the Tribunal and the matter remanded vide Final Order No.70618-70624/2017 dated 13.06.2017. The effect of the remand leads to a situation as if there is no confirmed demand out-standing against the assessee, so as to adjust the sanctioned refund claims against the same.

5. In view of the above, we find no infirmity in the impugned order of Commissioner (Appeals). Accordingly, all the appeals filed by Revenue are rejected.

(Dictated in Court)

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

Sd/-
(Archana Wadhawa)
Member (Judicial)

akp

प्रमाणित प्रति/Certified True Copy
28/02/18
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001