CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60040 of 2018

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-101-17-18 dated 27.09.2017 passed by the Commissioner (Appeals), Goods & Service Tax, Ludhiana]

M/s Munjal Castings ......**Appellant**
730, Industrial Area-Ludhiana
Punjab

VERSUS

Commissioner of Central Excise, Ludhiana ......**Respondent**
GST Bhawan, F-Block, Rishi Nagar
Ludhiana 141001

APPEARANCE:

Shri Sudeep Singh Bhangoo, Advocate for the Appellant

Shri Varun Sharma, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60457/2026

DATE OF HEARING:20.07.2026
DATE OF DECISION:20.07.2026

S.S. GARG:

The present appeal is directed against the impugned order dated 27.09.2017 passed by the Commissioner (Appeals), GST Ludhiana, whereby, the learned Commissioner (Appeals) has rejected the appeal of the appellant.

2. Briefly the facts of the present case are that the appellant is engaged in manufacturing of Auto Parts and electric goods

falling under Chapter 87 of the First Schedule to the Central Excise Tariff Act, 1985 and had sold the said goods to M/s Munjal Showa, Haridwar in the ordinary course of business on payment of duty on the transaction value determined in terms of Section 4 of the Central Excise Act, 1944. Further, the appellant issued two supplementary invoices seeking an increase in the rates of the parts of automobiles already cleared against the original invoices, namely Supplementary Invoice No.0120003070 dated 31.01.2012, demanding an additional amount of Rs. 5,30,964/- plus duty of Rs. 54,689/-, and Supplementary Invoice No.0120003074 dated 31.01.2012, demanding an additional amount of Rs.4,97,253/- plus duty of Rs.51,217/-.

2.1 The duty of Rs.1,05,906/- on the proposed enhancement was deposited by the appellant in the Government account, but the buyer M/s Munjal Showa, Haridwar, did not honour the revised enhanced prices for which the supplementary invoices had been issued, and no amount whatsoever was paid by the buyer against the said supplementary invoices. Consequently, the burden of the excise duty of Rs.1,05,906/- paid on the proposed enhancement was thus borne entirely by the appellant. The appellant accordingly filed a claim for refund of the said amount. Thereafter, a show cause notice dated 21.02.2013 was issued proposing to reject the refund claim on the ground that even if the customer did not honour the increased price, the appellant remained liable to pay duty, and the since the duty had been paid on the transaction value, hence, no refund could be allowed; the appellant filed reply to the show cause notice and after following the due process, the original authority vide its order dated 06.05.2013 rejected the refund claim citing the provision of Section 4(3)(d) of the Central Excise Act, 1944. Aggrieved by the said order, the appellant filed the appeal before the Commissioner (Appeals) and also filed certificates issued by the buyer regarding non-acceptance of the price increase and non-availment of Cenvat credit. However, the Ld. Commissioner (Appeals), however, vide order dated 27.09.2017, upheld the Order-in-Original. Hence, the present appeal.

3. Heard both the parties and perused the material on record.

4. Learned counsel for the appellant submits that the impugned order is not sustainable in law and is liable to be set aside as the same has been passed without properly appreciating the facts and the law. He further submits that the learned Commissioner (Appeals) has wrongly treated the claim as one of refund of duty paid on clearances effected on the basis of transaction value; whereas, it is not so. He further submits that it is a case of duty paid on a proposed increase over and above the transaction value already accepted by the customer, which increase was never accepted by the customer. He referred to Section 4(1)(a) of the Central Excise Act, 1944, which provides that the assessable value is the transaction value, i.e., the price actually paid or payable for the goods. He further submits that the enhancement of price sought vide two supplementary invoices was rejected by the buyer and no

amount was actually paid or remained payable, the transaction value remained the value of the original invoices on which duty already stood discharged. He further submits that the duty of Rs.54,689/- and Rs.51,217/- paid on the proposed enhancement is, therefore, an excess payment of duty which is to be refundable under Section 11B of the Act.

4.1 He also submits that in the present case, there is no question of unjust enrichment in the present case because the buyer has certified that it did not accept the increase in prices as per the supplementary invoices and did not pay any amount against them, and further that it did not avail any Cenvat credit on the strength of the said supplementary invoices because the buyer is availing the exemption under area-based exemption under Notification No.49/2003-CE / 50/2003-CE. In support of his submissions, he relied upon the following decisions:

- ***Commissioner of Central Excise, Rajkot Vs. M/s Amul Industries Pvt. Ltd reported in 2014 (313) ELT 727 (Tri.-Ahmd.)***
- ***Commissioner of C.Ex. Aurangabad Vs. Klassic Wheels Pvt. Ltd reported in 2010 (253) ELT 671 (Tri.-Mumbai).***
- ***M/s Woory Automotive India Pvt Ltd Vs. Commissioner of GST and Central Excise, Chennai reported in 2026 (4) TMI 1739 –CESTAT Chennai.***

5. On the other hand, learned authorized representative for the Department reiterated the findings of the impugned order.

6. We have considered the submissions of both the parties and perusal of the material on record, we find that the only issue involved in the present case is whether the appellant is entitled to claim the refund claim of Rs. 1,05,906/- paid by him on two supplementary invoices on account of increase in the rates of the parts of the automobile already cleared against original invoices. We also find that the enhancement of price was never accepted by the buyer and the buyer has also issued a certificate to the fact that he has not accepted increase in the price sought by way of supplementary invoices. We also find that the buyer further certified that it had not availed any cenvat credit on the strength of the said supplementary invoices because the buyer was availing area based exemption under Notification No.49/2003-CE / 50/2003-CE and was not in a position to avail any credit. We also find that both the authorities have wrongly treated the refund sought by the appellant as one of refund of duty paid on clearance affected on the basis of transaction value. The reliance placed by both the authorities below on section 4((3)(d) of the Act is wholly misplaced.

7. We further note that in the present case the buyer never accepted the price division and was never liable to pay the enhanced amount, the said amounts therefore cannot be part of the transaction value by any stretch of definition. We also note that in the present case the principle of unjust enrichment is not applicable because the buyer has already issued a certificate that he has not accepted the increase in

prices as per the supplementary invoices and did not pay any amount against them and nor availed any cenvat credit on the strength of these invoices. The issue is also squarely covered in the decision of Division Bench of the Tribunal in the case of ***M/s Woory Automotive India Pvt Ltd Vs. Commissioner of GST and Central Excise, Chennai*** cited supra wherein identical issue is involved and the Tribunal has held that bar of unjust enrichment is not applicable in such cases when the increase has not been accepted by the buyer and they have issued the certificate to that effect certifying that they have not availed any cenvat credit also.

8. In such circumstances, we are of the considered view that the impugned order is not sustainable in law and therefore, we set aside the same by allowing the appeal of the appellant with consequential relief, if any, as per law.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Kailash