CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHANDIGARH</u>

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 51420 of 2014

[Arising out of Order-in-Appeal No. JNK-EXCUS-000-APP-201-202-13-14 dated 02.09.2013 passed by the Commissioner (Appeals), Central Excise, Chandigarh]

Commissioner of Central Excise, ...Appellant
Jammu & Kashmir
OB-32, Rail Head Complex,
Jammu & Kashmir-180012

VERSUS

M/s Crystal Crop Protection ......Respondent
Pvt. Ltd.
SIDCO, Bari Brahmana,
Jammu & Kashmir-181133

<u>APPEARANCE:</u>

Shri S.K. Meena, Authorized Representative for the Appellant

Shri T.R. Rustagi, Advocate for the Respondent

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

FINAL ORDER NO. 60458/2026

DATE OF HEARING: 02.07.2026
DATE OF DECISION: 22.07.2026

<u>P. ANJANI KUMAR</u>:

Crystal Crop Corporation Ltd., are engaged in the manufacture of insecticides, fungicides, herbicides, pesticides, plant growth promoters; the respondents are availing exemption under Notification No.56/2002 (as amended) and filed refund claim of

Rs.4,86,87,713/- on 09.06.2011 on account of central excise duty paid by them through PLA during the financial year 2009-10 and 2010-11. The Deputy Commissioner vide OIO dated 21.06.2012 upheld the self-credit availed by the respondents subject to the outcome of decision in a Write Petition filed by the respondents before the Hon'ble High Court of Jammu & Kashmir challenging the vires of Notifications No.19/2008, 34/2008. On an appeal filed by the Revenue, learned Commissioner (Appeals) vide impugned order dated 02.09.2013 modified the order of the lower authority and allowed the differential refund claim pertaining to payment of duty on alleged fictitious production/ clearance subject to the final outcome of the appeal No. E/1888/2011 pending before CESTAT. Revenue filed the impugned appeal against the impugned order.

2. learned Authorized Representative for the Revenue submits that the respondent opted for cash refund for the year 2008-09 and for self-credit for the years 2009-10 and 2010-11; for the period 2008-09, the respondents were granted refund claims as per Value Addition norms; for the remaining period, the respondents have determined the value themselves claimed and taken refund as credit in current account subject to the conditions in Notifications No.19/2008 and 34/2008; the respondents did not file an appeal before Commissioner (Appeals) for refund of differential amount i.e. being the difference between the amount sanctioned by the Deputy Commissioner as per norms and the amount paid by them in account current; the respondent having not challenged the assessment are not entitled to consequential relief as held in Moti

Laminates Pvt. Ltd. – 2002 (144) ELT 3 (SC) and M/s LML Ltd. – 2003 (162) ELT 719 (Tri. Del.); learned Authorized Representative submits that learned Commissioner (Appeals) erred in taking a view that once the matter is challenged before a court of law and if the respondent wins the same, refund is automatic; learned Commissioner did not appreciate the assessment order need to be challenged if refunds are claimed. He also submits that learned Commissioner (Appeals) did not appreciate that the petition No.80/2011 filed by the Revenue before the Hon'ble High Court of Jammu & Kashmir has not attained finality. He submits that this issue has attained finality subsequent to the judgement by the Hon'ble Supreme Court in the case of M/s VVF Ltd. – 2020 (372) ELT 495 (SC).

3. Shri T.R. Rustagi, Learned Counsel for the respondents submits that the differential amount having been already refunded to the respondent by the authorities, the same would not be covered by the judgment of Apex Court in VVF Ltd(Supra), wherein it was clarified that the present judgement shall not affect the amount of excise duty already refunded meaning thereby, the cases in which excise duty is already refunded prior to the subsequent notification/industrial policies impugned before the respective High Court, are not to be reopened. He submits that the if the Hon'ble Tribunal allows the appeal on merits and in the event the respondent application under SV(LDRS) 2019, is ultimately not allowed, then in the recovery proceedings initiated either by way of 'consequential action' arising out of tribunals order or by way of

adjudication of the pending show cause notice dated 11-6-2013, as the case may be, the respondent may be given the liberty to make submissions on the applicability of the clarification given in the above cited order by Hon'ble Apex Court.

4. Heard both sides and perused the records of the case. There are two issue that require to be decided in the case. One pertaining to the excess credit claimed by the appellants while challenging the vires of the Notifications No.19/2008, 34/2008, allowed by the lower authorities subject to the outcome of the decision in a Write Petition filed by the respondents before the Hon'ble High Court of Jammu & Kashmir and the other the differential credit allegedly availed by the respondents on the non-existing clearances and which was impugned before this bench vide Appeal No. E/1888/2011.

5. Coming to the first issue, we find that the sanction of the refund was subject to outcome of the Writ Petitions filed by the respondents and the counter petitions filed by the appellants-revenue before Hon'ble High Court of Jammu & Kashmir. The issue agitated before the Hon'ble High Court of Jammu & Kashmir now stands settled being decided by the Hon'ble Apex Court in the case of M/s VVF Ltd. (supra). As the case is decided by Hon'ble Supreme Court, the appeal before this Bench does not serve any purpose. The Revenue is free to take whatsoever action legally as per the order of the Hon'ble Supreme Court in the case of M/s VVF Ltd. (supra) and the show cause notices that have been issued to the respondents. The respondents submit that they may be allowed to make submissions on the applicability of the clarification given by the

Hon'ble Apex Court in the case of M/s VVF Ltd. (supra), to the proceedings that may be initiated/ continued by the Revenue. We find that the respondents are free to make whatever submissions that they would like to make in response to pending show cause notice cited above. Revenue, on the other hand, is obliged to consider the same following the principles of natural justice.

6. Coming to the second issue of grant of refund of differential duty on the alleged non-existing and fictitious clearances, we find that the refund was granted to the respondents, by the impugned order, subject to the decision of this Bench in Appeal No. E/1888/2011. This Bench has since decided the appeal vide Final Order No.63197/2018 dated 27.08.2018. Therefore, on this count too, the appeal does not survive.

7. In view of the above, the appeal is disposed of in above terms.

(Order pronounced in the open court on 22/07/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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