CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SCO 147-148, SECTOR 17-C, CHANDIGARH-160017

DIVISON BENCH
COURT NO.1
Appeal No. E/53960-53967/2014

[Arising out of the Order-in-Appeal No. JNK-EXCUS-000-APP-202-209-14-15 dated 19.05.2014 passed by the CCE (Appeals), Jammu & Kashmir]

Date of Hearing/Decision: 29.08.2018

For Approval & signature:

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

Parental Pharma Pvt. Ltd. **Appellant**

Vs.

CCE, Jammu & Kashmir **Respondent**

Appearance

None- for the appellant
Shri. Tarun Kumar, AR- for the respondent

CORAM: **Hon'ble Mr. Ashok Jindal, Member (Judicial)**
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

FINAL ORDER NO: 62724-62731 / 2018

Per Ashok Jindal:

The appellants are in appeal against the impugned orders wherein the refund claim filed by them under Notification No. 56/2002-CE dated 14.11.2002 has been rejected on the ground that the appellants are not entitled to self credit/ refund in terms of Notification No. 19/2008-CE dated 27.03.2008 and 34/2008-CE dated 10.06.2008, as there are some restrictions for refund/ self credit to the appellants, instead self credit/ refund of duty paid through PLA. The ld. Commissioner (A) dismissed the appeals for want of pre deposit in terms of Section 35F of Central Excise Act, 1944.

2. Heard the parties.

3. We find that it is a case of excess refund sanctioned to the appellant, in that circumstances, we waive the requirement and taken all the appeals for final disposal today itself.

4. With regard to the issue that, in terms of Notification No. 19/2008-CE dated 27.03.2008 and 34/2008-CE dated 10.06.2008, whether the appellants are entitled to claim refund/self-credit as restricted by these notifications or not.

After hearing the parties, we find that the notifications in question have been examined by the Hon'ble J & K High Court in the case of ***Reckit Benckiser vs. UOI – 2011 (269) ELT 194 (J&K),*** wherein the Hon'ble High Court quashed the notifications in question. Therefore, in terms of Notification No. 56/2002-CE dated 14.11.2002, the appellants are entitled to claim refund/ self-credit of duty paid through PLA, relying on the decision of this Tribunal in the case of ***M/s. Biostadt India Limited & others vide Final Order No. 61350-61411/2018 dated 14.03.2018.***

5. In view of the above, we hold that the refund/ self credit cannot be restricted in terms of Notification No. **19/2008-CE dated 27.03.2008 and 34/2008-CE dated 10.06.2008** and the appellants are entitled to

claim refund/self credit of duty paid through PLA, in terms of Notification No. **56/2002-CE dated 14.11.2002.**

With these terms, appeals are allowed.

(Dictated and pronounced in the open court)

Anil G. Shakkarwar
Member (Technical)

Ashok Jindal
Member (Judicial)

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