CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI

Appeal No.E/222/2012

[Arising out of Order-in-Appeal No.10/2012 (P) dt. 13.1.2012 passed by Commissioner of Central Excise (Appeals), Chennai]

Commissioner of Central Excise,
Puducherry — Appellant

Versus

Shasun Chemicals & Drugs Ltd. — Respondent

Appearance :

Shri K.P. Muralidharan, AC (AR)
For the Appellant

Shri V. Ravindran, Advocate
For the Respondent

CORAM :

Hon'ble Ms. Sulekha Beevi C.S. Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of hearing / decision : 20.04.2018

FINAL ORDER No. 41227 / 2018

Per Bench

After hearing both sides, we find that the issue in dispute concerns alleged improper taking of credit of differential amount of rebate claim which was sanctioned less than the claimed amount due to re-quantification. We find that the issue has already been decided by this very Bench more than once in respect of the same appellant. The relevant portion of one of such orders reported in 2010 (254) ELT 346 (Tri.-Chennai) is reproduced below for ready reference :

> **"3.** I find that as per the practice prevailing, the appellants were being sanctioned about 98% rebate of the duty paid on the export goods in cash and the balance amount was to be taken as credit in the Cenvat account. In the present case, on a claim by the appellants, only a part of the rebate was given by cash and no credit was given of the balance amount. This has prompted the appellants to file supplementary claim for refund as advised by the department. Since the initial claim was made within the time limit prescribed and since the department itself has chosen to allow a part of the rebate, supplementary claim filed by the appellants cannot be held to be time barred. As such, the impugned order is set aside and the authority below is directed to sanction refund of the balance amount, if otherwise due by way of credit in the Cenvat account. The appeal is allowed in the above terms."

The ratio of this decision was subsequently followed in Final Order No.43126-43127/2017 dt. 1.11.2017 in respect of the same appellant. This being the case, we do not find any merit in the appeal filed by the department, for which reason it is dismissed.

(dictated and pronounced in court)

(Madhu Mohan Damodhar)	**(Sulekha Beevi C.S)**
Member (Technical)	**Member (Judicial)**

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