**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL**
**SOUTH ZONAL BENCH, CHENNAI**

**E/41299,41302/2015**

[Arising out of Orders-in-Appeal No.13 & 14/2015 SLM-CEX, dated 19.03.2015 passed by the Commissioner of Central Excise (Appeals-I), Coimbatore]

M/s. STAR PLASTICS APPELLANT

Versus

COMMISSIONER OF CENTRAL EXCISE, SALEM RESPONDENT

Appearance:

For the Appellant Ms. S. Sridevi, Adv.
For the Respondent Shri S. Govindarajan,

**CORAM:**

**Hon'ble Shri D.N. Panda, Judicial Member**

Date of hearing/decision **23-02-2017**

FINAL ORDER NO.s. 40456-40457/2017

On audit it was found that Cenvat credit was wrongly taken by the appellant. But Appellant reversed the same later paying interest for the period of usage. However, being aggrieved by the audit finding, reversal was made "under protest". Learned adjudicating authority considered that Cenvat credit to the extent of Rs.2,23,921/- was admissible to the appellant.

2. Revenue went to learned Commissioner (Appeals) against above decision. That Authority held in favour of the department by his Order in appeal No. 118/2014 disposed on 22.03.2014. Accordingly Cenvat credit amount of Rs.2,23,921/- was recoverable from the appellant. Appeal no.117/2014 relating to interest of Rs.74,078/- realisable, filed by Revenue was also allowed in its favour.

Customs, Excise & Service Tax Appellate Tribunal

3. Against Order-in-Appeal Nos.117 & 118/2014 disposed on 22.03.2014, the assessee came in appeal to Tribunal in Appeal no.41560 and 41561/2014 which were disposed on 24.02.2016 in terms of Final Order No.40394-40395/2016 directing the adjudicating authority to refund the amounts as above holding that date of adjudication was the relevant date for the refund application. Appellant says day that refund was granted to it in terms of Tribunals order. When both principal and interest amount aforesaid, were granted by the adjudicating authority, following the Tribunal's decision, Revenue did not go in appeal against such order.

4. While the matter stood as above, there was a proceeding again initiated in terms of show-cause notice dated 20.11.2014 on the self-same issue to recover the refunded amount ordered by the adjudicating authority as above. That show-cause notice proposed to recover the principal amount of Rs.2,23,921/-. Another show-cause notice dated 18.09.2014 was issued to recover the interest amount of Rs.74,078/-. Both show-cause notices were adjudicated on 19.12.2014 confirming demand of both, i.e., principal and interest. Against such confirmation, appellant was before learned Commissioner (Appeals) in Appeal No.13 & 14/2015. That authority disposed these two appeals on 19.03.2015 dismissing the appeal of the appellant. Such order is before Tribunal in the present appeal.

5. The factual matrix depicted above clearly demonstrates that the present two appeals are against outcome of the earlier appeal nos. E/41560-41561/2014 disposed on 24.02.2016 by Tribunal. Accordingly, these two appeals do not have further cause since the appellant has already been granted refund for which these two appeals

are dismissed as infructuous. By this it is explained that there is no further cause of action lies against the assessee after passing of the final order by Tribunal on 24.02.2016 as aforesaid.

(Dictated and pronounced in open court)

(D.N. PANDA)
JUDICIAL MEMBER

**ksr**