**IN THE CUSTOMS, EXCISE & SERVICE TAX**
**APPELLATE TRIBUNAL**
**West Block No. 2, R.K. Puram, New Delhi – 110 066.**

**Date of Hearing/Decision: 9.6.2017**

## Appeal No. E/53134-53141/2016-SM

(Arising out of Order-in-Appeal No. 218-225-CE/APPL-I/DLH-1/2015/2231 dated 14.9.2016 passed by the Commissioner (Appeals), Central Excise, New Delhi)

Kanodia Technoplast Ltd. Appellant

Vs.

CCE, Delhi-I Respondent

**Appearance**

Shri Gaurav Gupta, Consultant - for the appellant

Shri K. Poddar, D.R. - for the respondent

CORAM: **Hon'ble Mr. Ashok K. Arya, Member (Technical)**

## Final Order No. 53829-52836/2017

**Per Ashok K. Arya :**

1. The appellant viz. Kanodia Technoplast Ltd. has filed these eight appeals against common Order-in-Appeal No. 208-215/2016 dated 14.9.2016 whereunder the subject refund claims filed by the appellant exporter have been rejected.

2. Both sides represented by ld. Counsels, Shri Gaurav Gupta for the appellant and Shri K. Poddar for the Revenue have been heard.

3. After having gone through the facts of the case and submissions of both the sides, it appears that subject matter in these

appeals relate to rebate of duty of excise of goods exported and for such subject matters appeal does not lie to this Tribunal. This Tribunal does not have jurisdiction to decide any appeal in respect of any order passed by Commissioner (Appeals), if matter relates to rebate of duty of excise of the goods exported.

3.1 In this regard, proviso to Section 35B(1) of Central Excise, 1944 specifically mentions that the Appellate Tribunal shall not have any jurisdiction to decide any appeal in respect of any order passed by Commissioner (Appeals), if such order relates to a rebate of duty of excise as goods exported. The said relevant provisions of Section 35B of Central Excise Act, 1944 are reproduced below :

"35B **Appeals to Appellate Tribunal**

(1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order-

(a) ……………………………..

(b) An order passed by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (hereinafter in this Chapter referred to as the Board) or the Appellate Commissioner of Central Excise under Section 35, as it stood immediately before the appointed day:

(c) ………………..

(d) ………………………..

Provided that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order referred to in clause (b) if such order relates to –

(a) .......................

(b) a rebate of duty of excise on goods, exported to any country or territory outside India or on excisable materials used in the manufacture of goods which are exported to any country or territory outside India.;

(c) ..............................

(d) ..............................

3.2 It has been pointed out by the ld. DR that such matters are dealt with by the Central Govt. under the provisions of Section 35EE of Central Excise, 1944. Therefore, the appellant is at liberty to approach Central government on this subject matter.

4. In the result, all the appeals are dismissed as non-maintainable.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

RM