CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing: 19.07.2017

Appeal No. ST/609-616/2011-ST[DB]

[Arising out of the Order-in-Appeal No. IND/16 to 23/2011 dated 18.01.2011, passed by the Commissioner of Central Excise, Indore]

M/s. Hind Filters Ltd. … Appellant

Vs.

C.C.E. Indore ... Respondent

Appearance:

Present Shri Hemant Bajaj, Advocate for the appellant
Present Shri Sanjay Jain, DR for the respondent

Coram: **Hon'ble Mr. Justice (Dr.) Satish Chandra, President**
Hon'ble Mr. V. Padmanabhan, Technical Member

FINAL ORDER No. 55491-55498/2017

Per Justice (Dr.) Satish Chandra:

All the appeals have been filed against the order in appeal no. 16-23/2011 dated 18.01.2011. The brief facts of the case are that the appellant are engaged in the business of export of final products manufactured by it under Bond / LUT and claim the rebate under Rule 18 of the Central Excise Rules 2002. The rebate was allowed by the adjudicating authority but the demand of the service tax was appropriated by the adjudicating authority. The Commissioner (A) upheld the same. Being aggrieved the appellant has filed the present appeals.

2. With the above background, we have heard Shri Hemant Bajaj, Advocate for the appellant and Shri Sanjay Jain, DR for the respondent.

3. After hearing both the parties and on perusal of the record, it appears that demand case has come up before the Tribunal in appellant's own case reported as 2017-TIOL-157-CESTAT-DEL dated 29.11.2016 wherein it was observed as follows:

> *"We now turn to the benefit of Notification No. 29/2004-ST dated 22.9.2004. The notification has exempted so much of the value of taxable services in relation to an overdraft facility, cash credit facility or discounting of bills, bills of exchange or cheques equivalent to the amount of interest on such overdraft, cash credit or, as case may be, discount. The claim of the appellant for the benefit under notification stands denied by the lower authorities for the reason that the interest amount is not shown separately in the invoice or bill issued for this purpose. The appellant has claimed that they have submitted the relevant documents before the lower authorities who have ignored the same. We have perused copies of the documents submitted by the appellant in the appeal papers. We find that the invoices clearly indicate the amount of the bill of exchange, discounting charges and the net amount paid to the seller. In some cases, it has been shown as interest. The benefit of the exemption will be available whether the consideration is described as interest or discount. This has been specifically held by the Tribunal in the case of UCO Bank (supra). The documents submitted would require verification before allowing the benefit of exemption No. 29/2004-ST dated 22.9.2004. For this purpose, we remand the matter to the original adjudicating*

authority, who shall allow the benefit of the scrutiny of the documents. The appellant is directed to produce all relevant documents to establish their claim for the benefit of the notification. The appeal is allowed by way of remand."

4. Both the parties have agreed that the matter needs to be remanded in view of the earlier decision of the Tribunal (Supra). Hence, we set aside the impugned orders and remand the matter back to the adjudicating authority with the similar directions but by providing reasonable opportunity to the appellant for hearing. Fresh evidence, if any, may be submitted.

5. In the result, appeal filed by the appellant is allowed.

[Dictated and Pronounced in the open court]

(V. Padmanabhan)
Technical Member

(Justice Dr. Satish Chandra)
President

Bhanu