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

Date of Hearing/Order: 20.11.2017

Appeal No. E/50331-50332/2017-SM

(Arising out of Order-in-Appeal No. 255-256/CE/DLH/2016 dated 10.11.2016 passed by Commissioner, of Central Excise (Appeals), New Delhi)

M/s Welspring Universal — Appellant

Vs.

CCE, Delhi-II — Respondent

Appearance

Shri S.S. Dabas, Advocate - for the appellant

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

CORAM: **Hon'ble Mr. Justice (Dr.) Satish Chandra, President**

Final Order No. 58183-58184/2017

Per Justice Dr. Satish Chandra:

The present appeals have been filed against the Order-in-Appeal No. 255-256/2016 dated 10.11.2016. The period of dispute is July 2007 to December, 2007

2. The brief facts of the case are that the appellants are engaged in the manufacturing of welding machines, tools/accessories and are a 100% EOU. They were availing the Cenvat credit on inputs in terms of Cenvat Credit Rules, 2004. The appellants have removed 36 consignments for export under ARE-1s with prior information to the

department on payment of the duty on final products, under the claim of rebate. Thereafter, they filed rebate claim in respect of only 25 ARE-1s. The appellant has deposited the amount along with interest. The pending rebate claims were also withdrawn with a note that they will be filing a fresh rebate claim under Rule 5 of Cenvat Credit Rules. Thereafter, they filed three refund claims under Rule 5 and the said rules for the quarter relevant to the 36 challans exports made by the appellant. The lower authority has rejected the refund claims. Being aggrieved, the appellant has filed the present appeal.

3. With this background, heard Shri S.S. Dabas and K. Poddar, ld. Counsels for the parties and gone through the material available on record.

4. From the record, it appears that earlier, the issue has come up before the Tribunal who vide its order dated 3.12.2015 has remanded the matter to the authority to decide the issue on merit.

5. In pursuance, the impugned orders were passed where it was observed that the calculation made in the impugned orders are correct and consequently, no balance is available for being refunded to the appellants. When there is no balance available on that very

day for the refund then the claim of the appellant is not sustained. Hence, I find no reason to interfere with the impugned order which is hereby sustained along with reasons mentioned therein.

6. In the result, both appeals are dismissed.

(Dictated & pronounced in open Court)

(Justice Dr. Satish Chandra)
President

RM