

IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL,  
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT – IV

**Excise Appeal No. E/51791/2018 [SM]**

[Arising out of Order-in-Appeal No. 128(CRM)CE/JDR/2017-18 dated 12/03/2018 passed by the Commissioner (Appeals), CGST, Jodhpur]

**Natural Slate & Sandstone Exports Pvt. Ltd. ...Appellant**  
**Vs.**  
**C.C.E. & S.T., Jaipur – I ...Respondent**

**Excise Appeal No. E/51826/2018 [SM]**

[Arising out of Order-in-Appeal No. 44-CRM-CE-JDR-2017-18 dated 17/01/2018 passed by the Commissioner (Appeals), CGST, Jodhpur]

**Natural Slate & Sandstone Exports Pvt. Ltd. ...Appellant**  
**Vs.**  
**C.C.E. & S.T., Jaipur – I ...Respondent**

Present for the Appellant : Ms. Surbhi Sinha, Advocate  
Present for the Respondent: Mr. Tamana Alam, AR

**Coram: HON'BLE MRS. ARCHANA WADHWA, MEMBER (JUDICIAL)**

**Date of Hearing/Decision: 27.12.2018**

**FINAL ORDER No. 53473-53474 / 2018**

**PER: ARCHANA WADHWA**

Both the Appeals are disposed of by a common order as the issued involved is identical. The appellant is an 100% EOU and has filed refund claims of unutilised cenvat credit in terms of Rule 5 of the Cenvat Credit Rules. The same stands rejected by the lower authorities on the sole ground of limitation, by holding that inasmuch as the same has been filed beyond the period of limitation prescribed under Section 11B of the Central Excise Act, the same are time barred.

2. I find that identical refund claims were also rejected in respect of the same assessee for the earlier period. Tribunal vide its Orders

in the same assessee's case being final Order No. 50295-50296/2018 dated 23.01.18 observed that the provisions of Section 11B do not apply for refund of accumulated cenvat credit. For holding so Tribunal relied upon the Hon'ble Karnataka High Court's decision in the case of **mPortal India Wireless Solutions P. Ltd. Vs. C.S.T. Bangalore 2012 (27) S.T.R. 134 (Kar.)**. Inasmuch as the issue in the assessee's case stand decided, I set aside the impugned order and allow both the Appeals with consequential relief to the appellant.

[Dictated and pronounced in the open Court]

**(ARCHANA WADHWA)**  
**MEMBER (JUDICIAL)**

D.J.