

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Division Bench
Court - I

Appeal No. C/243/2009

(Arising out of Order-in-Appeal No.46/2008 (V) CH dated 17.12.2009 passed by
CCCE & ST, Visakhapatnam)

Bharat Aluminium Co Ltd

..... **Appellant(s)**

Vs.

CC, Visakhapatnam - CUS

..... **Respondent(s)**

Appearance

Shri S. Muthu Venkatraman & Ms. Sindhya, Advocates for the Appellant.
Smt. B.V. Siva Naga Kumari, Commissioner/AR for the Respondent.

Coram:

HON'BLE Mr. M.V.Ravindran, MEMBER (JUDICIAL)

HON'BLE Mr. P. Venkata Subba Rao, MEMBER (TECHNICAL)

Date of Hearing: 25.09.2018
Date of Decision: 25.09.2018

FINAL ORDER No. A/31235/2018

[Order per: M.V.Ravindran.]

1. This appeal is directed against the Order-in-Appeal No. 46/2008 (V) CH dated 17.12.2009.
2. Heard both sides and perused the records.
3. The issue that falls for consideration is whether appellant herein is able to justify that he has passed the hurdle of unjust enrichment in respect of the refund claimed by them of an amount of Rs. 74,84,294/- or otherwise. Both the lower authorities have recorded that the appellant had not substantiated the details to show that this amount has been shown under 'Loans and advances (recoverable)' to justify the refund to be sanctioned in their favour. We find that learned counsel had shown us various documents which indicate some references, which needs to be

considered by the adjudicating authority and we have no other option but to remit the matter back to the adjudicating authority to reconsider the issue afresh. The adjudicating authority will follow the principles of natural justice before coming to a conclusion and the appellant is at liberty to produce the documents on which they wish to rely upon to justify their case of refund of an amount of Rs.74,84,294/-.

4. Without expressing any opinion on the merits of the case, leaving all the issues open, we remand the matter back to the adjudicating authority to reconsider the issue afresh after following principles of natural justice.

5. Appeal stands disposed of by way of remand.

(Dictated and pronounced in the open Court)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

Veda