

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
KOLKATA
REGIONAL BENCH**

Excise Appeal Nos. 75200 of 2017

(Arising out of order-in-original No. CCE/Shillong No. 04/2014 dated 30.06.2014 passed by the Commissioner of Central Excise, Shillong)

M/s Sarvopari Impex Private Limited

95A, Khurigachi Main Road, Dakshinapara
Bhadreshwer, Hooghly, West Bangol.

Appellant

VERSUS

Commissioner of Central Excise, Shillong

Morellow Compound,
M G Road, Shillong-793 001

Respondent

Appearance:

Shri S Bagariya & Shri I Banerjee, Advocates for the appellant

Shri A.K Biswas, Authorized Representative for the respondent

CORAM:

HON'BLE SHRI P. K. CHOUDHARY, JUDICIAL MEMBER

HON'BLE SHRI BIJAY KUMAR, TECHNICAL MEMBER

DATE OF HEARING: 09.08.2019

DATE OF DECISION/PRONOUNCEMENT: 18.12.2019

FINAL ORDER NO.76988/2019

PER BIJAY KUMAR :

1. This appeal arises out of consolidated Order-in-Original dated 30.06.2014 passed by the Commissioner, Central Excise, Shillong, where the demand of Cenvat Credit to the extent of Rs. 1,14,26,513/- (including cess) has been confirmed against the M/s Sarvapari Impex Pvt. Ltd. (hereinafter referred to as the Appellant) along interest and penalty under the provisions of Cenvat Credit Rules, 2004 (hereinafter

referred to as 2004 Rules) read with provisions of Central Excise Act, 1944 (hereinafter referred to as the Act). The impugned order also rejected the claim of rebate of Rs. 39,64,006/- under various provisions of Excise Act and Rules made under.

2. Brief facts of the case are that the Appellant is 100% Export Oriented Unit engaged in the manufacture of sale of mouth freshener classifiable under Tariff Entry 21069070 of Central Excise Act, 1985 during the year 2008-09 and 2009-10 (for short "the relevant period"). During the course of their business the appellant purchased mouth freshener in bulk pack of 1 Kg. pouch as input from one M/s Vishal Distributor which after processing was re-packed in 200gm and 500gm poly packets and in small card board boxes which were subsequently exported. While exporting the appellant paid the duty by utilising for cenvat credit and cleared the final product from its factory for export under the prescribed procedure under the provision of excise officer in charge of the factory. As the appellant was procuring the goods from M/s Vishal Distributors, who assessed their goods under the provisions of Section 4A of Customs Act, the same was followed by the exporter. During the year 2008-09 the appellant has availed the cenvat credit to the tune of Rs. 2,69,32,739/- on purchases from M/s Vishal Distributors out of which an amount of Rs. 1,55,06,226/- was debited by the appellant towards the payment of Central Excise duty at the time of their final clearance.
3. The appellant came to know about the Circular of CBEC dated 20.04.2006 issued under F NO. 828/05/2006-CX by Central Board of Excise and Customs which clarified the position that the Export

Oriented Units were not required to discharge excise duty on the exports. And accordingly, the appellant requested for allowing of red-credit of duty already paid by it at the time of export, which was denied by the Jurisdictional Superintendent vide letter dated 27.07.2009. The department was of the view that 100% EOU was fully exempt from payment of duty in view of Notification No. 24/2003-CE dated 31.03.2003 the appellant has deliberately paid the duty in order to avail the extra benefit by way of rebate under Rule 18 of the Central Excise Rules as alleged the valuation of the mouth freshener at the hand of supplier M/s Bika Distributor was inflated. Accordingly, the impugned show cause notice dated 30.01.2012 was issued to the appellant for denial of rebate claim by the appellant. However, the issue raised in the show cause notice the rebate of Rs. 39,64,003/- out of total rebate claim of Rs. 52,18,473/- filed by the appellant as merchant exporter was under Rule 18 of 2002 Rules was denied on the ground that the supplier has overvalued the mouth freshener meant for export falling the valuation under Section 4A of the Excise Act.

- 4.** Learned Advocate has submitted that the appellant has undisputedly exported the goods by utilising the cenvat credit under the claim of rebate under Rule 18 of 2008 Rules through its 100% EOU unit. The appellant was not aware of the fact that the duty is not required to be paid by the appellant for export affected from 100% EOU on payment of duty. In terms of Notification 24/2003(supra). The appellant after knowing the CBEC Circular dated 24___ primarily prayed for re-credit of cenvat credit and withdrew the rebate claim from Jurisdictional

Authority. This issue is already settled by the decision of Hon'ble Tribunal in case of **Smuriti Organics limited vs. Commissioner of Central Excise, Pune-III[2015 (330) ELT 583(Tri.-Mum), Welspring Universal vs.Commissioner of Central Excise, Delhi-II[2017-TIOL-1652-CESTAT-DEL)]**.

- (i) Learned Advocate also submitted that the appellant would not be in a position to utilise the credit even if granted to be taken as re-credit, the appellant would not be able to utilise the same, and therefore, cash rebate is to be ordered to pay in terms of Cenvat Credit Rules. Regarding the export made by the appellant as merchant exporter it is his submission that the appellant has purchase the goods from its supplier on payment of applicable central excise duty and taken credit in terms of credit rules. The appellant has exported the goods after re-processing in their factory and export the same. The appellant filed the refund claim of the duty suffered on the export products by way of rebate under Rule 18 of the 2006 Rules. The appellant is not concerned with the price of their supplier which could be higher or otherwise. The appellant in their normal course of business has purchased the export goods (mouth freshener) and paid applicable rate of duty. Department have not brought any evidence to substantiate that the appellant and the supplier of the export goods are anyway related and were in hand and glove regarding the determination of price of the export product by any fraudulent means. Accordingly, he prays for setting aside of the impugned order.

5. Learned Departmental Representative on the other hand supports the impugned order and findings contained therein. He argued that the appellant has exported the product at inflated price which was at the hand of M/s Vishal Overseas, supplier of the goods. The adjudicating authority has reduced the rebate claim taking into consideration of price reflected. Return filed before the sale tax authorities. Accordingly, he is of the opinion that the impugned order is without any infirmity and required to be sustained in appeal.
6. We have considered the submissions made by the learned Advocate on behalf of the appellant and learned AR on behalf of the Revenue.
7. The issue to be decided in this case is twofold, first being eligibility of exporting the goods of their 100% Export Oriented Units on payment of duty and subsequently claiming rebate. It is on record that the appellant has withdrawn their refund claim and made a request in writing to the Departmental officer to permit the re-credit of cenvat credit availed for the discharge of central excise duty while exporting the goods. This request was turned down by the Department as is evident from the letter dated 27.07.2009. We have seen the various case laws submitted by the appellant and there is no dispute regarding viability of duty free export by 100% EOU in terms of Notification No. 24/2003. As the appellant has paid the duty, which ought to have not been paid, there is no reason that the refund thereof byway of re-credit in cenvat account can be stopped by the Department. While holding so, we refer the decision of Smriti Organics (supra).

“6. It is undisputed that appellant is an export oriented unit, not required to discharge any Excise duty on the goods exported by

them. It is also undisputed that appellant had debited the Cenvat account for discharge of duty liability on the goods cleared for export. The refund claim filed by the appellant was also rejected on the same grounds; the findings are not contested by both sides. If it is so, the Revenue authorities holding that the amount debited by the appellant on goods cleared for export is without any authority of law. Natural corollary would be the amount should be returned back to appellant, as revenue authorities can collect tax/duty only by authority of law. In the case in hand, from the records, it transpires that appellant though having filed refund claim, subsequently withdrew the same, with a request to lower authorities, seeking permission to re-credit the amount in their Cenvat account; this legitimate request of the appellant is also dismissed by the lower authorities. In my view, the lower authorities have erred in passing the order of rejecting the request of re-credit of the amount paid by the appellant and not due to the Government. To me, the impugned order is not in consonance with the law settled by the higher judicial forums, holding that duty collected without authority of law cannot be retained by the Government."

8. In view of above, we of the opinion that the impugned order is incorrect on this score. Regarding the denial of rebate by the appellant as merchant exporter, we find that the export goods have been purchased on payment of duty to the supplier of the goods, and therefore, the appellant is legally permitted to avail rebate on the export product to the extent of Central Excise Duty paid. The violation at the end of supplier of the goods is not within control of the appellant. The Department has not objected the payment of duty at the time of their clearance from the supplier's factory. In fact has suffer central excise duty at the declared value. The appellant has not taken anything other than the duty paid at the time of procurement of raw-material as cenvat credit, which after processing has been exported by a value addition at the end of appellant. Therefore, the appellant is rightly entitled to claim the rebate of the central excise duty paid at the time of their procurement from supplier/manufacturer. We also find that customs department has not

objected to the value declared by the appellant under the provisions of Customs Act at the time of export under Export Valuation Rule, 2007. Identical issue has come for consideration before us in case of Appeal No. 76343/2014 filed by one of the co-noticee. This appeal was decided vide Final Order No.F.O./76891/2019 dated 17.12.2019 wherein it is held as under;

5. We have considered the submissions made by learned Advocate on behalf of the Appellant and learned Departmental Representative on behalf of Revenue and also perused the appeal records.
6. The issue involved in this case is as to whether the Appellant has claimed any extra amount of rebate by over valuing their export product while exporting the same. The Appellant is merchant exporter, who has obtained the export goods from manufacturer/supplier at payment of duty as per the rate specified in ARE-1 and also in the excise invoice. It is the contention of the Department that the Appellant had manipulated the price of the exported goods by adopting higher assessable value in collusion with the supplier/ manufacturer. The Commissioner in his order has held which is as under;

“21. It is alleged that Ektara Export Pvt Ltd. the Noticee No. as one of the exporters tried to get the value undue benefit of Central Excise duty rebate under Rule 18 of the Central Excise Rules, 2002 by means of exporting the product i.e. Mouth Freshener after purchasing the same from the manufacturing unit of M/s Vishal Distributors during the period 2008-09 (In March, 2009) and 2009-10 (In May, 2009). I find that the said Noticee No.7 had purchased the Mouth Freshener from the Noticee No. 4 (Manufacturing unit) on a highly inflated assessable value in comparison to the actual transaction value as was evident from the Central Excise Invoices and the corresponding Tax Invoices issued by the Noticee No. 4 in this regard. The Central Excise Invoices issued in this regard by the Noticee No. 4, the total assessable value was found to be 18,99,92,952/- (Rupees Eighteen Ninety Nine Lakh Ninety Two Thousand Nine Hundred Fifty Two Only) and against this, the total transaction value was shown as 4,39,75,872/- (Rupees Four Crore Thirty Nine Lakh Seventy Five Thousand Eight Hundred Seventy Two Only) in the respective tax Invoices, which were meant for Sales Tax purpose.

21.2 I find that based on the higher assessable value, the Noticee No. 4 paid total Cenvat duty of 1,51,99,436/- (Rupees One Crore Fifty One Lakh Ninety Nine Thousand Four Hundred Thirty Six only) and Education Cess of 4,55,983 (Rupees Four Lakh Fifty Five

Thousand Nine Hundred Eighty Three Only) from their Cenvat credit account under Section 4A ibid. Therefore, M/s Vishal Distributors (Manufacturing unit) by showing higher assessable value and paying Central Excise Duty from their Cenvat Credit account under Section 4A had facilitated Ektara Export Pvt Ltd. to claim higher export rebate under Rules 18 of Central Excise Rules, 2002. It is a settled issue in law that in case of export, the valuation must be under Section 4 of Central Excise Act, 1944. Therefore, it appears that the Noticee No. 4 instead of paying Central Excise duty on the transaction value, which comes to 23,18,070/- (Rupees Thirty Five Lakh Eighteen Thousand Seventy only) and Education Cess & Secondary & Higher Cess of 1,05,542/- (Rupees One Lakh Five Thousand Five Hundred Forty Two Only), had facilitated Ektara Export Pvt Ltd. to claim excess Cenvat duty rebate of Rs. 1,16,81,336/- (Rupees One Crore Sixteen Lakh Eighty One Thousand Three Hundred Thirty Six only) and Education Cess & Secondary & Higher Education Cess rebate of Rs. 3,50,441/- (Rupees Three Lakh Fifty Thousand Four Hundred Forty One only)

21.3 It is on record that Ektara Export Pvt Ltd. had purchased Mouth Fresheners from the Manufacturing Unit of M/s Vishal Distributors during the period 2008-09 and 2009-10 under 54 (Fifty four) numbers of ARE-1 for export and the duty amount of the said exported product was subsequently claimed as rebate of Central Excise Duty under Rule 18 of Central Excise Rules, 2002.

21.4 I also find from the statement of the authorised representative of the Noticee No. 7 Shri Anupam Jha, the authorised representative of the said Noticee No. 7 had no knowledge how and where from M/s Vishal Distributors, the Noticee No. 4 had procured the raw material for manufacture of Mouth Freshener which was ultimately sold to the Noticee No. 7 as well as:

21.5 That the Noticee No. 7 had directly dealt with M/s Vishal Distributors and payment was made to them by Cheque and RTG.

21.6 That the Noticee No. 7 had no business interest with the Noticee No.1 and the Noticee No.2. However, the Noticee No. 7 had provided interest free loan to M/s Atrishay Pure Products, the Noticee No. 2 as the partner of Noticee No. 2 had family relationship with the Directors of the Noticee No. 7.

21.7 That the Noticee No. 7 had no idea of any agreement between the Noticee No. 4 and the Noticee No. 1 or between the Noticee No. 4 and the Noticee No. 2 in respect of sale of products of the Noticee No. 1 and the Noticee No. 2 by the Noticee No. 4 as agent.

21.8 I find that Ektara Export Pvt. had intentionally purchased artificially high MRP valued goods (though the actual transaction value was much lower) for export and claimed excess duty rebate in violation of Rule 18 of CE Rules, 2002.

21.9 I have gone through the submissions made by the Noticee No 7 in their reply to the Show Cause Notice and during the course of personal hearing but I do not find any force in their submissions as they could not given any evidence to justify the same. The investigation, however, has been able to justify the charges against the Noticee No. 7 by adducing adequate evidence.

21.10 I, therefore, fully agree with the investigation that the Noticee No. 7 as merchant exporter had also violated the Rule 18 of Central Excise Rules, 2012 in as much as they claimed excess duty rebate in respect of the product exporter in 2008-09 and 2009-10. Excess Central Excise duty rebate under Rule 18 of Central Excise Rules, 2002 as claimed by the Noticee NO. 7 in respect of the product exported by them as merchant exporter on purchase from the Noticee No. 4 during the period 2008-09 and 2009-10 was quantified as the difference between the excess Central Excise duty, Education Cess and Secondary & Higher Education Cess paid by the Noticee No. 4 based on incorrect duty assessment under Section 4A of CA Act, 1944 and the actual Central Excise duty, Education Cess and Secondary & Higher Education Cess leviable and payable based on assessment of duty under Section 4 of CE Act, 1944. And, the excess rebate claim of the Noticee No. 7 was found to be Rs. 1,20,31,807/- (Rupees One crore Twenty Lakh Thirty One Thousand Eight Hundred Seven only) during the period 2008-09 and 2009-10.

7. It was submitted before the Commissioner that the Appellant has procured the goods on the payment of excise duty and exported the same at a price slightly higher than the procurement price. It was submitted before the Commissioner that the price is not inflated. The manufacturer/supplier has determined the assessable value for the purpose of, payment of central excise at higher rate than the assessable value declared for the purpose of a payment of commercial tax, which is none of their concern. The exports were affected by the Appellant through the various shipping bills supported by ARE-1 and commercial invoices which were duly checked and verified by the Central Excise Officers and also the Custom Officer at the time of their export. The manufacturer/ supplier has sold the goods to the Appellant by adopting the value declared under Section 4A of the Act in terms of Notification No. 49/2008/CE (NT) dated 24.12.2008 issued under Section 4A of the Excise Act. The export value of the subject exported goods were not objected by the officers of the Department at the time of export. As the

Appellant has procured the goods which were valued under Section 4A of the Act it, could not have taken any other value for the purpose of export. The Department contention that in case of export the valuation under Section 4A is not permitted without any legal basis under Central Excise Act and Rules. The Department has not been able to prove that the Appellant has, in any way, purchased the goods by suppressing any relevant information with the Department. The Department has reduced the value of export goods in an arbitrary manner by adopting the assessable value, which was declared by the supplier before the Commercial Tax Department. The Appellant was not concerned with the price that was declared by the supplier of the goods to the Commercial Tax Department. There is no evidence that the manufacturer/supplier and Appellant has any relationship so as to influence the prices declared for the export goods. We find that the Department was paid central excise duty on the price declared by the manufacturer/supplier and the Appellant has taken credit of the same and exported the product under the provisions of Rule 18 of Central Excise Rules. In the circumstances it will not be appropriate to ask the Appellant not to avail the rebate of the duty paid by it under the provisions of Rule 18 of the Central Excise Rules.

8. We also find that the assessment has been completed by the Departmental officer at the manufacturers/suppliers end which cannot be changed by the jurisdictional officer of the Appellant unit in terms of Rule 3 of Cenvat Credit Rules 2004. In this regard reliance is placed on the decision of Hon'ble Supreme Court in case of **Commissioner of Central Excise and Customs vs. MDS Switchgear Limited[2008 (229) ELT 28 (SC)]**. The relevant paragraph of the order is as follows:

7. The Tribunal has come to the conclusion that in fact there was no loss of revenue. It accepted the appeal by recording the following reasons :

“Reasons given by the appellants for the alleged inflation of the value of the intermediate goods are logical. What was required of the Commissioner was to examine the quantum of the loading of the assessable value by the Modvat credit on the earlier inputs. That exercise has nowhere been done. If the department was of the opinion that the value of the final product was depressed, then they could have charged the Jalgaon unit with under-invoicing of their product. That has also not been done. The valuation as given by the Sinnar unit was duly approved by the department and the payment of duty was also duly accepted. We find absolutely no substance in the attempt of the learned Commissioner to convert a part of the duty so paid into ‘deposit of duty’. There is no legal basis for such presumption. The rules entitled the receipt manufacturer to avail of the benefit of the duty paid by the supplier manufacturer. A quantum of duty already determined by the jurisdictional officers of the supplier unit cannot be contested or challenged by the officers in charge of recipient unit [2000 (38) RLT 179].”

8. Counsel appearing for the Revenue could not assail any of the findings recorded by the Tribunal.

9. That being the position, we agree with the view taken by the Tribunal and find no merit in these appeals which are dismissed leaving the parties to bear their own costs.

9. We also find that Hon'ble Supreme Court in case of **Om Overseas Limited vs. Union of India [2003 (156) ELT 167 (SC)]** has held that if there is any short payment, the benefit of rebate cannot be denied unless and until the same is by reason of fraud, collusion or wilful statement or suppression of fact. It has been not been brought on record in the impugned order that the Appellant has committed any fraud while obtaining the export goods from their supplier on payment of Central Excise duty in terms of Section 4 A of the Act. In the said decision the Hon'ble Supreme Court has held as under:

“3.The appellants bought 100% cotton fabrics from one M/s. Gopi Synthetics and then exported the said fabrics. The appellants claimed rebate under Notification No. 29/96-C.E. (N.T.), dated 3rd September, 1996 on the footing that duty had been paid by the manufacturer i.e. M/s. Gopi Synthetics. This rebate was denied on the ground that duty had been short paid by M/s. Gopi Synthetics inasmuch as they had availed of 60% deemed Modvat credit whereas they were only entitled to avail credit @ 50%. For this short payment of duty, a show cause notice was issued to M/s. Gopi Synthetics. After receipt of the show cause notice M/s. Gopi Synthetics paid up the 10% duty which had been short paid. They then appealed against penalty which had been levied on them. The Commissioner (Appeals) waived penalty on the ground that short payment was not by reason of any fraud, collusion or any wilful mis-statement or suppression of facts. The appeal filed by the Department against that order was dismissed on the ground of non-compliance with statutory provisions. Thus, the order of Commissioner (Appeals) in the case of M/s. Gopi Synthetics has attained finality. In their case it has been held that short payment was not due to any fraud, collusion or any wilful mis-statement or suppression of facts.

4.The only ground on which the appellants have been denied rebate is that M/s. Gopi Synthetics (the manufacturer) had short paid duty. Even though M/s. Gopi Synthetics has since paid the duty and it has been finally held that there was no fraud, collusion or any wilful mis-statement or suppression of facts, rebate is being denied to the appellants. This is being done on the specious plea that it was the duty of the appellants,

before he exported the goods, to see that the correct amount of duty had been paid. We are unable to accept this submission. Benefit of rebate is not to be denied because there is short payment. Benefit can be denied only if there is short payment by reason of fraud, collusion or any wilful mis-statement or suppression of facts. Once it has been held that there was no fraud, collusion or any wilful mis-statement or suppression of facts on the part of the party who was to pay the duty then the exporter cannot be denied rebate.

5. In this view of the matter, we are unable to sustain the impugned judgment of the High Court or of the order passed by Joint Secretary to the Government of India in the revision application. The appeal is accordingly allowed. It is held that the appellants will be entitled to rebate under the Notification. There will be no order as to costs."

10. Further we find that the Department has failed to produce any evidence regarding export price declared by the Appellant is at lower price than the contemporaneous export price. This aspect has been considered by Hon'ble Supreme Court in case of **Commissioner of Customs vs. Crown International Limited 2015 (325) ELT 462**, wherein it is held as under;

"Respondents are merchant exporters. They purchased CD-ROMs containing software from one manufacturer. Purchase price was Rs. 640/- per piece. Respondents had entered into a contract with foreign buyers for export of the CD ROMs at the rate of USD 18 per piece, which was equivalent to Rs. 761.40 at the prevailing exchange rate. Respondents realised the full export proceeds from the foreign buyers.

2. Based on the investigations, show cause notice was issued alleging that the value declared by respondents for export was inflated with a view to take the advantage of DEPB schemes. It was observed that the software in the CD-ROMs were otherwise freely downloadable from the internet. According to the Department, fair value of the CD-ROMs, after considering all incidental costs, should have been much lower.

3. The show cause notice was adjudicated upon by the Commissioner who vide Order-in-Original dated 27-3-2000 dropped the proceedings and held that there had been no contravention of the provisions of Customs Act.

4. Aggrieved, the Department appealed to the Customs, Excise and Service Tax Appellate Tribunal (hereinafter referred to as 'CESTAT').

5. The CESTAT has allowed the appeal vide impugned decision dated 18-8-2006 [[2006 \(203\) E.L.T. 120](#) (Tri.-Mum.)] accepting the case of the respondent-assessee, meaning thereby, the price of Rs. 640/- as declared by the assessee is found to be genuine. A perusal of the order reveals that the CESTAT has noted that the respondents purchased the CD ROMs from the local market directly from the manufacturer. The purchase price of Rs. 640/- has not been challenged. It is not the case of the Department that the transaction between the manufacturer and the respondents is not genuine. It is also not Department's case that the transaction between the respondents and the foreign buyers is not genuine. Respondents have procured the goods for valuable consideration and in turn, received the foreign exchange fully for the sale of goods to the foreign buyers. Therefore, there is no reason to discard the transaction value as between the manufacturer and the respondents nor as between the respondents and foreign buyers. The CESTAT also found that the Department has not shown that at the time and place of exportation, such or like goods have been exported from India at much lower price as claimed by the Department. It is also an accepted fact that the respondents and foreign buyers are not related parties.

6. We find that all the aspects have been duly and rightly considered by the CESTAT. The analysis of the material is on factual aspect and no substantial question of law arises for consideration in the instant appeal.

7. The appeal is, accordingly, dismissed.

Civil Appeal Nos. 3140-3143 of 2008

8. The appeals are dismissed in terms of the aforesaid order passed in Civil Appeal No. 1581 of 2007."

We are, therefore, of the view that export price declared by the appellant cannot be discarded.

11. During the relevant time the Appellant was acting as merchant export or and has determined at the assessable value in terms of Section 14 of the Customs Act and Export Valuation Rules, 2007. It is not accepted of the merchant exporter to question the price declared by the supplier. The Department has not produced any evidence regarding the fact that the Appellant and the supplier has colluded with each other to inflate the value of export consignment.

12. Rule 18 of the Central Excise Rules has been made to neutralise the duty incidence for export goods and ensure that the product remains expected in competitive foreign market. The purpose of said rule is to return the amount of duty that was paid by the exporter while exporting the goods outside India. Under the Circumstances, we are of the considered opinion that the Appellant has not overvalued the exported goods at their end and the impugned order is, therefore, not sustainable. The appellant is entitled for the rebate at the declared price for the export made by it.

13. The appeal is, accordingly, allowed.”

9. In view of above, we set aside the impugned order and allow the appeal.

10. We are of the opinion that the appellant is entitled for re-credit/refund of cenvat credit duty availed while exporting the goods through its 100% EOU and also the rebate as per declared violation for export made as merchant exporter, accordingly, we allow the appeal with consequential benefit, if any.

Pronounced in the open Court on. 18.12.2019

Sd/

(Bijay Kumar)
Member (Technical)

Sd/

(P. K. Choudhary)
Member (Judicial)