

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.2

Excise Appeal No.77911 of 2018

(Arising out of Order-in-Appeal No.36/Kol.I/2018 dated 22.03.2018 passed by Commissioner (Appeals) of CGST, Excise, Kolkata)

M/s Universal Machines Ltd.

220A, Naskar Para Road, Ghusuri, Howrah-711107

Appellant

VERSUS

Commissioner of CGST & Excise, Kolkata North

180, Shantipally, Rajdanga Main Road, Kolkata-700107

Respondent

Appearance:

Shri Debashis Guha, Consultant for the Appellant

Shri K.Chowdhury, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO.75187/2022

DATE OF HEARING : 08.04.2022

DATE OF DECISION : 08.04.2022

PER P.K.CHOUDHARY :

The Ld.Counsel appearing on behalf of the appellants submits that the present appeal arising out of the Order-in-Appeal No.36/Kol.I/2018 dated 22.03.2018 passed by Commissioner (Appeals) of CGST, Excise, Kolkata, has been inadvertently filed before this Tribunal. He submits that the instant appeal relates to the denial of rebate of Central Excise duty on export exisable goods under Rule 18 of Central Excise Rules, 2002 by the Original Adjudicating Authority and upheld by the Commissioner (Appeals). Being aggrieved with this order of the Commissioner (Appeals), the appellants have filed this appeal before this Tribunal under Section 35B of the Central Excise Act, 1944. He submits that the appellants have missed to read the 1st Provision of Section 35B and committed an inadvertent mistake. He also submits that in terms of 1st Provisio (b) of Section 35B of Central Excise Act, 1944, the instant appeal shall not lie before CESTAT. The present appeal is required to be filed before the Revisionary Authroity, Central

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Government in terms of Section 35EE. Accordingly, he prays for withdrawal of this appeal.

2. On the other hand, the Ld.D.R. for the Revenue, fairly agrees with the above submissions made by the Id.Counsel for the appellants and submits that a suitable decision on this appeal may be taken.

3. In view of the submissions made by the Id.Counsel for the appellants, the instant appeal is dismissed as withdrawn.

Dictated and pronounced in the open Court.

Sd/
(P.K.Choudhary)
Member (Judicial)

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