IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO.

Appeal No. E/87017/2017

(Arising out of Order-in-Appeal No. PK/141/BEL/2017 dt. 28.04.2017 passed by the Commissioner of Central Excise (Appeals-II) Mumbai.)

M/s. Svizera Labs Pvt. Ltd. : **Appellant**

VS

Commissioner of Central Excise, Belapur : **Respondent**

Appearance

Shri Prasad Paranjape, Advocate for Appellant

Shri Deepak S. Chavan, Supdt. (A.R) for respondent

CORAM:

Hon'ble Shri Ramesh Nair, Member (Judicial)

Date of hearing : 16/02/2018
Date of decision: 16/02/2018

ORDER NO. A/85589 / 2018

The fact of the case is that the appellant have made the entries of cenvat credit in their financial records whereas the credit in RG-23A Part-II was taken after 1 year from the date of receipt of the invoices. The case of the department is that as per the provision prevailing at the relevant time under Rule 4(7) the time limit for availing the credit is 6 months/1 year and since the appellant have taken the credit in RG 23A Part-II after 1 year they are not eligible for the credit.

2. Shri Prasad Paranjape, Learned Counsel appearing on behalf of the appellant submits that at the relevant time there is no

statutory record prescribed for taking the cenvat credit. He submits that they have made the entries in respect of the cenvat credit in the financial books. In this regard he submitted Balance Sheet, Income Tax Return and Return submitted to the ROC and General Ledger Extract and he claimed that the entries of all the cenvatable invoices were made in the financial records this should be considered as record showing availment of credit which was made well within the prescribed time limit. He fairly concedes that the records were not produced before the lower authority.

3. Shri Deepak Chavan, Learned Superintendent (A.R.) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. On careful consideration of the submissions made by both the sides. I find that as per the submission of Learned Counsel and records produced before me, it appears that the appellant have taken the entries in respect of cenvatable credit in their financial records. I also observed that during the relevant time there was no specific record prescribed for making the credit entry for the purpose of cenvat. In this position, I am of the considered view, that not making entries in RG 23A Part-II will not disentitle the appellant from the cenvat credit. The entries made in their financial record are more than sufficient compliance of taking credit. Therefore the cenvat credit cannot be denied on the ground of limitation, however whether the entries in respect of all the invoices concerned, in this case, entries were made in the financial records or otherwise is matter of verification which can be done by

the adjudicating authority. Therefore I set aside the impugned order and remand the matter to the adjudicating authority for passing fresh order after verification of the financial records of the appellant. Appeal is allowed by way of remand.

(Pronounced & Dictated in court)

(Ramesh Nair)
Member (Judicial)

SM.