IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: E/88019/2017

[Arising out of Order-in-Original No: PUN-EXCUS-003-COM-005-17-18 dated 27/09/2017 passed by the Commissioner of CGST, Pune –II.]

Prime Controls …***Appellant***

versus

Commissioner of CGST
Pune – II …***Respondent***

Appearance:

Shri S. Narayanan, Advocate for the appellant

Shri H.M. Dixit, Assistant Commissioner (AR) for the respondent

CORAM:

Hon'ble Shri M V Ravindran, Member (Judicial)

Date of hearing: 14/03/2018
Date of decision: 14/03/2018

ORDER NO: A/85675 / 2018

This appeal is filed against Order-in-Original No: PUN-EXCUS-003-COM-005-17-18 dated 27/09/2017 passed by the Commissioner of CGST, Pune –II.

2. Heard both the sides and perused the records.

3. On perusal of the records it transpires that the impugned order is challenged only on the ground that the Commissioner of Central Excise & CGST, Pune – II has denied permission sought by the appellant under Rule 16(3) of the Central Excise Rules, 2002 and also has imposed penalty of ₹ 5,000 under Rule 27 of the Central Excise Rules, 2002.

4. I find that the issue of granting permission under Rule 16(3) by the Commissioner needs to be considered by the authority as the said provision of Rule 16(3) contemplates removal of the goods subject to conditions that may be imposed by the Principal Commissioner or the Commissioner. In my view, Commissioner of Central Excise, needs to appreciate the said rule as it stood in the statute. In view of the foregoing, the impugned order is set aside and the matter is remanded back to the adjudicating authority for fresh consideration.

5. The appeal is disposed off.

(Dictated in Court)

(M V Ravindran)
Member (Judicial)

**/as*