CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

Service Tax Appeal No. 85487 of 2015

(Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-113-14-15 dated 26.11.2014 passed by the Commissioner (Appeals), Central Excise, Pune I)

Commissioner of Central Excise, Pune II **…..Appellant**
ICE House, 41/A, Sassoon Road, Pune

Vs.

M/s. Faurecia Interior Systems India Pvt. Ltd. **…..Respondent**
Plot no. T-187, Pimpri Indl. Area,
B.G. Block, Behind Bhosari Police Stn.
Bhosari, Pune

APPEARANCE:

Shri Dilip SHinde, AC (Authorised Representative) for the appellant
Shri H.G. Dharmadhikari, Advocate for the respondent

CORAM: **Hon'ble Mr C J Mathew, Member (Technical)**
Hon'ble Dr. Suvendu Kumar Pati, Member (Judicial)

FINAL ORDER No: A/86283 / 2019

DATE OF HEARING : 22.07.2019
DATE OF DECISION : 22.07.2019

PER: C J MATHEW

This appeal of Revenue challenges order-in-appeal no. PUN-EXCUS-001-APP-113-14-15 dated 26th November 2014 of Commissioner (Appeals), Central Excise, Pune I for having allowed refund of ₹26,40,073/-, which had been rejected by the original authority in considering a claim for refund of ₹85,38,239/- under rule

5 of CENVAT Credit Rules, 2004 for the period April 2011 to June 2011. Though the total credit for the period April 2012 to June 2012, admittedly, was ₹83,38,272/-, the claim was restricted to the sanction by the original authority of ₹9,65,44,730/- from the total export turnover of ₹32,99,10,338/-.

2. The first appellate authority, being of the opinion that the formula prescribed on notification no. 18/2012-CE(NT) dated 17th March 2012 for arriving at eligible monetisation of CENVAT credit required the values to be assigned in the manner claimed by the respondent herein and that the export turnover had been, unwarrantedly, reduced, allowed the claim in full.

3. We have heard Learned Authorised Representative and Learned Counsel for the respondent.

4. The issue is limited to the values to be emplaced in the formula prescribed in rule 5 of CENVAT Credit Rules, 2004 which was devised to allow refund of credit accumulated during the period in proportion of receipts attributable to exports of the quarter bore to the total turnover. In the definitions therein, only the receipts from export turnover of services requires determination by computation and total turnover is sum of such receipts and value of all other services, if any, rendered during the period.

5. We find that there is no dispute on the receipts from export of services during the quarter. The rival contentions centered around the

total turnover. In the review order, it was opined to be the total of the receipts and not related to the exports made while, according to the respondent, the total turnover, in the absence of any other activity, is the same as the computed receipts for the quarter. On perusal of definition of total turnover, it is receipts in relation to the export of services during the quarter added to consideration for any other services rendered. In the context of the sole activity of respondent, the receipts attributable to exports of the quarter with ‘nil’ addition would be the denominator. With the numerator and denominator being identical, the eligible accumulated credit would have to be sanctioned in entirety. Once eligibility is articulated in the Rules as a formula, an interpretation of the formula is beyond the authority of law. The first appellate authority cannot, therefore, be faulted for allowing the rejected portion of the claim.

6. For the above reason, we find no merit in the appeal of Revenue, which is dismissed.

(Operative part pronounced in Court)

(C J Mathew)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

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