

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

WEST ZONAL BENCH

SERVICE TAX APPEAL NO: 85938 OF 2019

[Arising out of Order-in-Appeal No: PUN-EXCUS-001-APP-640/2018-19 dated 11th February 2019 passed by the Commissioner of Central Excise (Appeals), Pune – I.]

Freudenberg Filtration Technologies (I) Pvt Ltd
837/2 Pune – Nagar Road, Vill: Sanaswadi,
Tal: Pune - 412208

... Appellant

versus

Commissioner of Central Tax
41/A F Wing, 3rd Floor, GST Bhavan, Sassoon Road
Pune - 411001

...Respondent

APPEARANCE:

Shri Vidyadhar S Apte, Advocate for the appellant

Shri S B Hatangadi, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)

FINAL ORDER NO: A / 85715 /2022

DATE OF HEARING:	25/02/2022
DATE OF DECISION:	22/08/2022

The backdrop of this appeal filed by M/s Freudenberg Filtration Technologies (I) Pvt Ltd, a manufacturer registered under Central Excise Act, 1944, against order-in-appeal no. PUN-EXCUS-001-APP-640/2018-19 dated 11th February 2019 of Commissioner of Central Tax (Appeals-I), Pune is as relevant as the submissions made

before the lower authorities who denied refund of ₹ 15,28,524 claimed by them owing to inability to 'carry forward' the balance under CENVAT Credit Rules, 2004 into the substitute tax scheme under the transitional provisions of the new statute.

2. In the returns for April to June 2017 filed on 12th August, 2017, they had included balance of ₹ 2,39,89,523 which they enhanced to ₹ 2,60,13,068 in revised return filed on 20th September 2017 as some details were not available initially. The appellant, in TRAN-1 filed on 10th July 2017, reported 'carry forward' of the credit balance as reflected in the original return. Of the differential amount of ₹ 20,23,545, the amount claimed as refund on account of 'inputs' was ₹ 12,86,702 on 13th June 2018 and ₹ 2,41,822 towards 'input services' on 28th June 2018. The total claim of ₹ 15,28,524 was sought under section 142(9)(b) of Central Goods and Services Tax (CGST) Act, 2017.

3. The lower authorities held that the transitional provisions permitted 'carry forward' of credit into the new scheme and that, in the absence of specific mechanism in CENVAT Credit Rules, 2004 for monetization of credit, the balance that had not been carried forward could not be refunded to them.

4. According to Learned Counsel for appellant, their plea that section 142(9)(b) of Central Goods and Services Tax (CGST) Act,

2017 was not restricted to exports and, hence, applied to their claim was not considered in the proper spirit. It was further contended that the orders of the lower authorities differed from the issues raised in the notice. He submitted that the Tribunal, in *Punjab National Bank v. Commissioner of Central Tax, Benguluru North* [2021 (52) GSTL 421 (Tri – Bang)], had settled the legality of such claims.

5. Learned Authorized Representative submitted that the cited provision did not cover CENVAT credit balance and that there was no other empowerment for grant of refund under CENVAT Credit Rules, 2004.

6. It would appear that the lower authorities had attempted to dispose off the claim without the benefit of decisions of the Tribunal or the constitutional courts. It is, therefore, appropriate that the matter be decided afresh by the original authority taking into consideration this, or any order or judgement, in similar circumstances. To enable this, we set aside the impugned order and remand the matter back to the original authority. The appellant shall be granted opportunity to make their submissions following which the claim may be disposed off expeditiously.

(Order pronounced in the open court on 22/08/2022)

(C J MATHEW)
Member (Technical)