CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
REGIONAL BENCH, COURT NO. 4

EXCISE APPEAL NO. 85524 OF 2021
(Arising out of Order-In-Appeal No. NSK/EXCUS/0000/APPL/85/20-21 Dated 04.01.2021 passed by The Commissioner (Appeals) CGST & Central Excise.)

INDIAN VALVE PVT
C-II/19, 47-50,
Plot No. 53,
Industrial Estate, Satpur,
Nashik-422 007.

Appellant

Vs.

COMMISSIONER OF CGST & CENTRAL EXCISE, NASIK
Nashik Commissionerate,
Plot No. 155, Sector-P-34,
NH Jaistha-Vaishakh, CIDCO,
Nashik-422 008.

Respondent

Appearance:
Shri Sachin Chitnis, Advocate for the Appellant.

Shri Xavier P.M. Mascarenhas, Superintendent, Authorized Representative for the Respondent.

CORAM:
HON'BLE MR. ANIL.G.SHAKKARWAR, MEMBER (TECHNICAL)

Date of Hearing: 19.02.2024
Date of Decision: 19.02.2024

FINAL ORDER - 85229/2024.

PER : MR. ANIL.G.SHAKKARWAR

Heard both the sides and perused the record. Through the impugned order, the refund claim of Rs. 14,16,995 was rejected for the reason that there was no clarity as to whether the amount of Rs. 14,16,995/- was in fact lying in the credit balance of the appellant in their PLA which in the Act is called account current as on 30.06.2017,

2. The Appellant has submitted downloaded copy of ER-1 return for the month of June, 2017. At the end of entry at serial No. 4 in the said ER-1 return, closing balance of Rs. 11,88,984/- is declared as balance in the account current maintained by the appellant with the exchequer. In the last so many years, the said entry has not been challenged by Revenue. Learned

Counsel for the Appellant has relied on decision of this Tribunal through Final Order No. A/85310/2023 dated 28.06.2023 in Excise Appeal no. 88127/2019.

3. Learned Authorized Representative has supported the impugned Order-In-Appeal.

4. On perusal of record, I find that out of the claim filed by the appellant of Rs. 11,88,984 was the amount in the credit balance of the appellant in the account current maintained by the Appellant. Time and again it is held by this Tribunal that amount in account current which is also called PLA is an advance maintained by Appellant or assessee with the exchequer and only when amount is debited in the said account, it is treated as payment of duty. Limitation is applicable to such quantum which is debited. The amount which is not debited is the property of the appellant and for refund of the same, limitation is not applicable.

5. Learned Counsel for the Appellant during the hearing has not pressed for refund of the balance between Rs. 14,61,995/- and Rs. 11,88,984/-. Therefore, I set aside the impugned Order and allow the refund of Rs. 11,88,984 which was lying balance in the account current of the Appellant. Revenue is directed to issue the cheque or to make electronic payment whatever presently practiced, within a period of 2 months for effecting refund of PLA balance of Rs. 11,88,984 to the appellant.

6. In above terms, the appeal is partially allowed.

(Dictated and pronounced in open court.)

(ANIL.G.SHAKKARWAR)
MEMBER (TECHNICAL)

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