CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

EXCISE APPEAL NO: 88575 OF 2014

[Arising out of Order-in-Appeal No: PUN-EXCUS-003-APP-008-14-15 dated 9th May 2014 passed by the Commissioner of Central Excise (Appeals), Pune – III.]

LG Electronics (I) Pvt Ltd
Plot No. A-5, MIDC Ranjangaon, Pune-Nagar Road
Pun e- 411001 … ***Appellant***

versus

Commissioner of Central Excise
Pune – III
ICE House, 41A Sassoon Road, Pune - 411001 ***…Respondent***

APPEARANCE:

Shri Rajesh Ostwal, Advocate for the appellant

Shri Rajiv Ranjan, Assistant Commissioner (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 86142/2024

DATE OF HEARING:	04/04/2024
DATE OF DECISION:	03/10/2024

PER: C J MATHEW

M/s LG Electronics (I) Pvt Ltd operates '100% export oriented unit (EOU)' against 'letter of permission (LOP)' issued by jurisdictional Development Commissioner for the manufacture of 'DVD-writer drive desktop' which are entirely cleared for export under bond and, for the credit accumulated in relation to exports effected between January 2012 and March 2012, a claim for refund of ₹ 1,38,15,933/- was filed on 3rd January 2013 under rule 5 of CENVAT Credit Rules, 2004. The said claim was rejected by the original authority on the ground of inadequacy of details prescribed in 'Form A' that had not been made good and that the inclusion of opening balance of ₹ 1,31,34,900/- for the said period in the claim had not been satisfactorily explained. The order[1] disposing of the challenge to the said disposal before the Commissioner of Central Excise (Appeals), Pune – III is in appeal before us.

2. We have heard Learned Counsel for the appellant and Learned Authorised Representative at length.

3. We find from the records that the impugned order has remanded the matter back to the original authority after ascertainment of several issues raised in the order rejecting the claim for refund and, specifically, on the method of computation of eligible CENVAT credit as provided in condition no. 5 of notification[2] for fresh disposal thereof. It is also seen that a clarification has been issued by the

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[1] [order-in-appeal no: PUN-EXCUS-003-APP-008-14-15 dated 9th May 2014]
[2] [no. 5/2006-CE (NT) dated 14th March 2006]

Central Board of Excise & Customs (CBEC) in circular[3], which is claimed by the appellant herein as beneficial to them but disregarded in the remand order.

4. We find that the first appellate authority has remanded the matter for fresh consideration of certain aspects that had led to the rejection of the refund claim by the original authority. We see no reason to interfere with the order of remand but, considering the plea made by the appellant herein as well as the claim of applicability of the circular issued by Central Board of Excise & Customs (CBEC), we modify the impugned order and leave all issues open in the *denovo* adjudication to be carried out by the original authority.

5. The appeal is disposed off in the above terms.

(Order pronounced in the open court on 03/10/2024)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*

[3] [no. 120/01/2012-ST dated 19th January 2010]