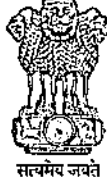


REGISTERED SPEED POST AD



**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE**

**Office of the Principal Commissioner RA and
Ex-Officio Additional Secretary to the Government of India
8th Floor, World Trade Centre, Cuffe Parade,
Mumbai- 400 005**

F. No. 198/211(I to IV)/16-RA/2882

Date of Issue: 30.12.2022

ORDER NO. 1253-1256/2022-CX(WZ)/ASRA/MUMBAI DATED 29.12.2022
OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO
THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL
EXCISE ACT, 1944.

Applicant : Principal Commissioner of Central Excise, Mumbai -I.

Respondent : M/s. Cipla Ltd.
Mumbai Central,
Mumbai - 400 008.

M/s. Cipla Ltd.
Raj Plaza, 3rd Floor,
Opp Everest Masala Factory,
LBS Marg, Vikroli(W)
Mumbai - 400 083.

Subject : Revision Application filed under Section 35EE of the Central Excise Act, 1944 against Order-in-Appeal No. SK/55 to 58/M-I/2016 dated 30.06.2016 passed by the Commissioner (Appeals), Central Excise, Mumbai-I

ORDER

The revision application has been filed by Principal Commissioner of Central Excise, Mumbai -I. (hereinafter referred to as "the applicant") against Order-in-Appeal No. SK/55 to 58/M-I/2016 dated 30.06.2016 passed by the Commissioner (Appeals), Central Excise, Mumbai-I in respect of M/s. Cipla Ltd. Raj Plaza, 3rd Floor, Opp Everest Masala Factory, LBS Marg, Vikroli(W) Mumbai – 400 083 (hereinafter referred to as "the respondent").

2. The respondent had filed rebate claims in respect of the goods exported on payment of duty under Notification No. 19/2004-CE(NT) dated 06.09.2004, issued under Rule 18 of the Central Excise Rules, 2002, read with Section 11B of the Central Excise Act, 1944. The Maritime Commissioner, Central Excise, Mumbai-I rejected the rebate claims since the said claims were found to be hit by bar of limitation of time as specified under Section 11B of the Central Excise Act, 1944. In these cases the rebate claims filed by the respondents were found to be defective either due to lack of documents that required to be submitted or otherwise and such claims were returned back to the respondents under deficiency memo and the said claims were resubmitted by the respondents beyond the period of one year. The respondents were issued Show Cause Notices and the Maritime Commissioner, Central Excise, Mumbai-I vide Orders-in-Original No. 237/MTC-R/2014 -15 dated 17.10.2014, 96/MTC-R/2014-15 dated 30.06.2014, 240/MTC-R/2014-15 dated 17.10.2014 & 648/MTC-R/2014-15 dated 23.02.2015 rejected the rebate claims on the ground that the rebate claims had been filed after expiry of one year from the date of export of goods which was in violation of the stipulation under Section 11B(1) of the CEA, 1944.

3.1 Being aggrieved by the rejection of their rebate claims by the Maritime Commissioner, Central Excise, Mumbai-I, the respondent filed appeal before the Commissioner(Appeals). The Commissioner(Appeals) disposed off the appeal vide OIA No. SK/55 to 58/M-I/2016 dated 30.06.2016 by setting

aside the Orders-i-Original passed by the Assistant Commissioner rejecting rebate claims on the grounds of limitation of time in as much as the initial date of submission was well within the period of one year.

3.2 The Commissioner(Appeals) observed that the respondent had initially filed the rebate claims within one year from the date of export as required under Section 11B of the CEA, 1944 and the Department had returned the claims to the respondent under deficiency/discrepancy memos. On resubmission of the said claims by the respondents, the applicants held that the period of one year of filing the said claims from the relevant date has expired. He held that the initial date of filing the rebate claim is to be considered as the relevant date and so the rebate claims are not barred by limitations.

4. The Commissioner of Central Excise, Mumbai-I found that the OIA No. SK/55 to 58/M-I/2016 dated 30.06.2016 was not proper and legal and therefore filed revision application on the following grounds :

i. Section 11B of the Central Excise Act, 1944, states that:-

“(1) Any person claiming refund of any duty of excise and interest, if any, paid on such duty may make an application for refund of such duty and interest, if any paid on such duty to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise before the expiry of one year from the relevant date in such form and manner as may be prescribed and the application shall be accompanied by such documentary or other evidence (including the documents referred to in section 12A) as the applicant may furnish to establish that the amount of (duty of excise and interest if any paid on such duty) in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such duty and interest, if any, paid on such duty had not been passed on by him to any

(2) If, on receipt of any such application, the [Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] is satisfied that the whole or any part of the [duty of excise and interest, if any paid on such duty] paid by the applicant is refundable, he may make an order accordingly amount so determined shall be credited to the Fund:

Provided that the amount of [duty of excise and interest, if any paid on such duty] as determined by [the Assistant Commissioner of Central

Excise or Deputy Commissioner of Central Excise] under the foregoing provisions of this subsection shall instead of being credited to the Fund he paid to the applicant of such amount is relatable to -

rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;

(B) relevant date" means-

(a) in the case of goods exported out of India where a refund of excise duty paid is available in respect of the goods themselves or as the case may be the excisable materials used in the manufacture of such goods if the goods are exported by sea or air the date on which the ship or the aircraft in which such goods are loaded, leaves India, or if the goods are exported by land, the date on which such goods pass the frontier or if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India"

(ii) From the above provisions it is clear that in order to be eligible for refund the respondent is under obligation to make an application for refund of such duty to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise before the expiry of one year from the relevant date in such form and manner as may be prescribed. In the present case the appellant though initially filed the rebate claim within the time limit, all the claims were returned to the appellant alongwith all the documents under Deficiency Memo. Each Memo specifically pointed out the deficiency in the claim. It was brought to the notice of the appellant that the office of the rebate sanctioning authority was not in a position to process these claims. They were also requested to do the needful in the matter.

(iii) All the claims were duly returned at the earliest and within the stipulated period of three months. Chapter IX of the CBEC Manual deals with Refund and para No. 2 deals with presentation of refund claim. Sub-para No. 2.4 deals with the subject matter of controversy and reads as under :-

"2.4 - It may not be possible to scrutinise the claim without the accompanying documents and decide about its admissibility. If the

claim is filed without any documents, it may lead to delay in sanction of the refund. Moreover, the claimant of refund is entitled for interest in case refund is not given within three months of filing of claim. Incomplete claim will not be in the interest of the Department. Consequently, submission of refund claim without supporting documents will not be allowed. Even if claim is filed by post or similar mode, the claim should be rejected or returned with Query Memo (depending upon the nature importance of document not filed). The claim shall be taken as filed only when all relevant documents are available”.

(iv) The above instructions are binding both on the Department as well as the appellant. In Chapter 1 Part 1 of the said CBEC Manual the scope of the Manual has been explained. Paragraph No. 1.1 indicates that the instructions are supplemental to and must be read in conjunction with the Act and the Rules. Paragraph No. 2 makes it clear that the Manual is a public document and is made available to all interested persons. On a conjoint reading of paragraph Nos. 1.1 and 1.2 of the Manual it is also apparent that instructions therein are applicable throughout India and officers of Central Excise Department are not entitled to depart therefrom without previous approval of the Commissioner, who in turn is required to obtain sanction from CBEC for such deviation.

(v) The significant citations, on the issue regarding consideration of date of filing of claim in case of resubmission made on account of deficiency in the claim noticed at the time of initial filing and regarding substantial compliance of the procedures prescribed under the Act and the rules, are reproduced below -

(i) Hon'ble Calcutta High Court, in the case of Dugar Impex Pvt. Ltd. v/s. Commissioner of Customs, Mumbai, as reported in [2003(154) ELT 0576 Cal] has held that date of resubmission of the claim after removing the deficiency should be deemed to be the date of claim.

(ii) CESTAT in the case of Malwa Cotton Spinning Mills Ltd. v/s. CCE, Ludhiana reported in [2013 (2) ECS (86) (Tr-Del)], has held that the date

when defective application is rectified and a proper application comes to record, that date is relevant date for the purpose of fund.

(iii) Hon'ble High Court of Judicature at Bombay in the case of Everest Flavours Ltd. v/s. U.O.I., as reported in [2012 (282) ELT 481 (Bom)], is squarely applicable in the present case wherein, it has been held that mere presentation of an ARE-1 form does not constitute the filing of a valid application for rebate.

(iv) Hon'ble Supreme Court in the case of Collector of Central Excise, Chandigarh v/s. M/s. Doaba Co-operative Sugar Mills Ltd., Jalandhar, as reported in [1988 (37) E.L.T. 478 (S.C.)], has specifically held that an assessee is bound by the statute and the period of limitation prescribed in the Central Excise Act and the Rules framed thereunder must be adhered to.

(v) Hon'ble Supreme Court in the case of Porcelain Electrical Mfg. Co. v/s. Collector of Central Excise, New Delhi, reported in [1998 (98) E.L.T. 583 (SC)], has held that application is subjected to the limitation provided under the Act and the rules and not open to process the same under general law of limitation.

(vi) Larger Bench of Hon'ble CESTAT in the case of Steel Strips v/s. Commissioner C. Ex., Ludhiana, as reported in [2011 (269) ELT 0257 Tri-LB], has held that in the case of refund the substantial compliance to the law granting refund is absolutely necessary.

(vii) It is clear from the above judgments that in the present case the appellant had not fulfilled the substantial conditions specified in the said section, rules read with the relevant Notification, Instruction, Circulars etc issued for this purpose. The Commissioner A) has erred in not taking into consideration the nature of the discrepancies and the substantial unjustified lapse of time in resubmitting the rebate claims. The claimant has

taken for granted that once an attempt has been made by him to file the claim, which was returned back subsequently due to deficiency, then it can be resubmitted without any applicability of limitation. In fact the nature of discrepancies were such that without resolving them it was impossible for the sanctioning authority to satisfy himself about the eligibility of the claim. Therefore, sufficient opportunity had been extended to the claimant, as natural Justice, for compliance of the deficiencies. However, the claimant neither found it discreet enough to comply with the deficiencies within reasonable time nor found it prudent to substantiate the inordinate and unreasonable delay in resubmission of the rebate claims. The claimant had remained passive was not concerned about complying with the discrepancies. Thus, it is apparent that the case of the claimant does not fall within the excepted period of limitation, therefore, the date of resubmission of the rebate claims has to be considered as the claims have been resubmitted even after the normal period of limitation of one year from the date of issue of deficiency memos. The judgments relied upon by the Commissioner (A) in the case of (1) M/s. Dagger Forst Tools Ltd. before the Govt of India, Revisionary Authority, reported in [2011] (271) E.L.T. 471 (G.O.I.]. (2) Judgment of Hon'ble High Court of Delhi in the case of CCE. Delhi v/s. Arya Export and Industries (3) Judgment of Tribunal Mumbai in the case of M/s. Duraline India Pvt. Ltd. v/s. CCE. Goa and CCE. Pune v/s. Motherson Sumi Systems Ltd. are differentiated as the period of resubmission of claims involved therein was comparatively lesser than that involved in the present case. Hence, relying on those judgments for deciding the present issue would be out of context and inconsistent with the present facts of the case. Hence, the rebate claims filed by the claimant were liable for rejection.

Therefore, Commissioner (Appeals) has erred by setting aside the Orders-in-Original passed by the Adjudicating Authority and accepting the contention of the exporter in their appeals.

5. A Personal Hearing was held in this case on 28.07.2022 and Shri Prashant M. Mhatre, Authorized Signatory appeared online for hearing on behalf of the respondent. He submitted that an additional submission is being made within a week. The respondents filed submissions dated 28.07.2022 wherein they mainly contended as under :-

They have correctly submitted their rebate claims within one year from the relevant date (i.e. Date of shipment) as per the provision of section 11B of central excise Act, 1944.

- The Miscellaneous Provision of Part-IV under chapter 8 of CBEC Excise Manual of Supplementary Instructions at para 1 reproduced here for your perusal

“1.1 – The rebate sanctioning authority should point out deficiency, if any, in the claim within 15 days of lodging the same and ask exporter to rectify the same within 15 days. All queries /deficiencies shall be pointed out once the collectively and piecemeal queries should be avoided. The claim of rebate of duty on export of goods should be disposed of within a period of two months.”

As per this, Rebate sanctioning authority should have followed due process by issuing deficiency cum show cause notice and even after if claimant failed to comply with the requirement as noticed by deficiency cum show cause notice, rebate sanctioning authority have rights to reject rebate claim by passing order.

- Further, there is no provision for returning of rebate claim under any Section, Rule, Notification and Supplementary instructions issued under central excise Act,1944. Therefore, even under discretionary power, if any rebate claim returned to claimant, and if same has re-submitted with required compliance by the claimant, then it should not be treated as fresh submission of rebate claim.
- It is accepted facts, that rebate sanctioning authority can exercises their rights to issue deficiency memo in the interest of Revenue of Government of India if they have observed any discrepancies in rebate claim. But condition of 15 days has not been waived/ relaxed

to them also. Therefore, our rebate claim has been returned to us along with deficiency memo after completion of more than two months is incorrect.

- Therefore, it look likes that most of our rebate claims were returned to us merely to avoid the limitation period of sanctioning rebate claim. Because as per the supplementary instructions at Part-IV of chapter 8 rebate claim must be disposed of within a period of two months.
- But Facts remains, the word “resubmission” is not defined under the provision of section 11B of central excise Act, 1944. The word “resubmission” included “submission” and we have correctly submitted our rebate claim as per the provision of section 11B of Central Excise Act, 1944.
- Therefore, rebate claim resubmitted after removing deficiency pointed out by original authority cannot alters its status/ nature / originality, it remains the same. Therefore, condition of limitation as per the provision of section 11B of central excise Act, 1944 is not applicable as it is not fresh claim.
- However, procedural instruction given under chapter 8 of manual are of guiding in nature and it is also silent on resubmission issue, rather there is no as such any instruction about returning of rebate claim to the claimant along with deficiency memo, Further, if any provision / procedure given under supplementary instruction is of contradictory to the provision of section of Act then the provision of section will prevail over, as in the present case section 11B of Central Excise Act, 1944 does not direct / instruct on resubmission issue.
- In fact, as per chapter 8, part IV of supplementary instruction, there is no any specific guidelines / provision for returned of rebate claim, it has explained procedural part for if any discrepancies observed in rebate claim. Therefore, they would like to submit that an issuance of a deficiency memo and returning of rebate claim with deficiency memo are both the separate issue, and as per the provisions of Notification 19/2004-CE (NT) dt. 6.9.2004 issued under Rule 18 of

central excise Rule 2002 there is no provision or direction for the returning of rebate claim. Therefore, the act of sanctioning authority is “void ab initio” and ultra-virus.

- To support their contention, they would like to rely on following citations. In similar matter vide **GOI Order No.938/13-Cx Dated 16.07.2013. Government of India –**

Held that “Rebate limitation –Relevant date-time to be computed from the date on which refund/rebate claim was initially filled and not from the date on which rebate claim after remaining defects was submitted section 11B of Central Excise Act, 1944”.

❖ Further, **The Hon’ble Supreme Court Bench** comprising Hon’ble Justice Mr. H. L. Dattu and Hon’ble Justice Mr. Amitava Roy on 28th September 2015,

- Dismissed Petition for Special Leave to Appeal (Civil) CC No.17561 of 2015 filed by the Deputy Commissioner of central excise, Chennai against the Judgement and order dated 26th March 2015 of Madras High Court in Writ Appeal No.821 of 2012, as reported in 2015(321)E.L.T.45(Mad.) (Dy Commissioner V Dorcas Market Pvt.Ltd.). While dismissing the petition , The Hon’ble Supreme Court passed the following order :

“Delayed Condoned.

Dismissed.”

- The Madras High Court in its impugned order has held that question of rebate of duty is governed separately by section 12 of Central Excise Act,1944 and the entitlement to rebate would arise only out of a notification under section12(1) ibid. Rule 18 of central Excise Rules, 2002 is to be construed independently. Notification No.19/20014-C.E., dated 6.9.2004 does not contain the prescription regarding limitation. Assessee having exported the goods and in absence of any prescription in the scheme, the rejection of application for refund as time-barred is unjustified.

[Deputy Commissioner V Dorcas Makers Pvt.Ltd.- 2015 (325)

E.L.T. A104 (S.C.)]

Also enclosed relevant page of section 12 of Central Excise Act, 1944.

❖ **2016 (333) E.L.T.246 (Guj.) (High Court of Gujarat)-**

APAR Industries (Polymer Division) V. Union of India -

- Refund/**Rebate** – Limitation – Resubmission of rebate claim after removing defects – Petitioner originally submitting claim in time albeit in wrong format of Annexure-19 by oversight – In any case, no specific format prescribed either in Rule 18 of Central Excise Rules 2002 or in notification issued thereunder – Time limit provided under section 27 of Customs Act, 1962/section 11B of Central Excise Act,1944 must be computed from date of original filing of rebate claim and not from the date of resubmission of claim after rectification mistakes/defect- section 27 of Customs Act, 1962 – Section 11B of Central Excise Act,1944 – Article 226 of Constitution of India.
- ❖ **2017 (355) E.L.T. 342 (Mad) (High Court of Madras) – Hyundai Motors India Ltd. V. Dept. of Revenue, Ministry of Finance. –**
 - Export rebate – Limitation – relevant date – claim under notification No. 19/2004-C.E.(N.T.) – contention that no specific relevant date prescribed in notification not acceptable in view of proviso (a) to sub-section (2) of section 11B of Central Excise Act,1944 – Relevant date not date of payment of additional duty paid subsequent to export of goods but date of export – Goods exported on 10-11-2008 and 15-11-2008 and assessee paying additional duty on 15-12-2008- Claim of rebate of duty made on 27-11-2009 – Rejection of claim filed beyond one year of export upheld -Rule 18 of Central Excise Rule, 2002 – section11B of Central Excise Act,1944
 - In view of aforesaid submission they requested to take all these facts on records and allow their revision application with consequential relief.

6. Government has carefully gone through the relevant case records, perused the impugned Order-in-Appeal, the Order-in-Original, the revision application and the submissions filed by the respondent. The issue involved is whether the rebate claims would be hit by limitation of time prescribed in terms of Section 11B of the CEA, 1944 with reference to date of resubmission of the claims.

7.1 Government also notes that in these cases the respondents had filed the refund claim initially within the time limit period of one year stipulated under Section 11B of the Central Excise Act, 1944. The said refund claims were subsequently returned to the respondents for removal of defects by the rebate sanctioning authority. Accordingly, the defects were removed and the refund claim was again submitted at a subsequent date. It is the contention of the respondents that the date of refund claim be considered when it was filed initially, whereas the Revenue contends that it was the later date when claim complete in all respects was filed, hence that should be taken as the filing date. In rejecting the refund claim as time-barred, the original authorities had observed that the date on which refund claim was filed only after removal of defects, be considered as the date of filing of the refund claim. The mandate of sub-section (2) of Section 11B of CEA, 1944 is that the Assistant Commissioner should accept it in full or in part or may reject it. However, instead of rejection of the claim, it was directed by the Department to file more documents/removal of defects, which the respondents had carried out the said direction by removing the defects. In such circumstances, it cannot be said that the refund claim was filed for the first time when it was filed after removing the defects and hence, barred by limitation. Government therefore, observes that the date of claiming the rebate of duty be the date when the claim was launched with the department initially.

7.2 Government observes that there are catena of judgments wherein it has been held that time-limit to be computed from the date on which

refund/rebate claim was originally filed. High Court and Tribunal, have held in following cases that original refund /rebate claim filed within prescribed time-limit laid down in Section 11B of Central Excise Act, 1944 and the claim resubmitted along with some required documents/prescribed format on direction of department after the said time limit cannot be held time-barred as the time limit should be computed from the date on which rebate claim was initially filed.

- (i) CCE, Delhi-I v. Aryan Export & Ind. - 2005 (192) E.L.T. 89 (DEL.)
- (ii) A Tosh & Sons Pvt. Ltd. v. ACCE - 1992 (60) E.L.T. 220 (Cal.)
- (iii) CCE, Bolpur v. Bhandiguri Tea Estate - 2001 (134) E.L.T. 116 (T. Kol.)
- (iv) Good Year India Ltd. v. CCE, Delhi - 2002 (150) E.L.T. 331 (T.-Del.)
- (v) CCE, tune-I v. Motherson Sumi Systems Ltd. - 2009 (247) E.L.T., 541 (T. Mum.) = 2011 (22) S.T.R. 496 (Tribunal).
- (vi) GOI Order 237/2013-Cus dated 22.10.2013 in the case of M/s Famy Care Ltd. [2014(311)ELT 871 (GOI)]

7.3 Government of India has also held in a case of M/s. IOC Ltd. reported as 2007 (220) E.L.T. 609 (GUI) as well as in a case of M/s Polydrug Laboratories (11 Ltd., Mumbai (Order No. 1256/2013-CX dated 13.09.2013) as under :-

“Rebate limitation-Relevant date-time Limit to be computed from the date on which refund/rebate claim was initially filed and not from the date on which rebate claim after removing defects was submitted under section 11B of Central Excise Act, 1944.”

7.4 Government in this connection also relies on Hon'ble High Court of Gujrat's Order dated 17.12.2015 in Special Civil Application No. 7815 of 2014 in the case of Apar Industries (Polymer Division) v/s. Union of India 12016 (333) E.L.T. 246 (Guj.)] wherein while the petitioner had submitted

the rebate claim in time although, in wrong format. The said claim was returned to the petitioner upon which the petitioner represented the same claims alongwith necessary supporting documents later on. These applications were treated by the Department as time barred and claims were rejected. While disposing the petition, the Hon'ble High Court observed that

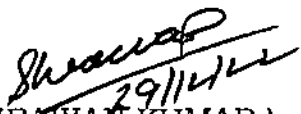
Thus, making of the declarations by the petitioner in format of Annexure-19 was purely oversight. In any case, neither Rule 18 nor notification of Government of India prescribe any procedure firm claiming rebate and provide for any specific format for making such rebate applications. The Department, therefore, should have treated the original applications/declarations of the petitioner as rebate claims. Whatever defect, could have been asked to be cured. When the petitioner represented such rebate applications in correct form, backed by necessary documents, the same should have been seen as a continuous attempt on part of the petitioner to seek rebate. Thus seen, it would relate back to the original filing of the rebate applications, though in wrong format. These rebate applications were thus made within period of one year, even applying the limitation envisaged under Section 27 of the Customs Act Under the circumstances, without going into the question whether such limitation would apply to rebate claims at all or not, the Department is directed to examine the rebate claims of the petitioner on merits. For such purpose, revisional order and all the orders confirmed by the revisional order are set aside. The Department shall process and decide rebate claims in accordance with Rules.

7.5 Government also observes that the aforesaid decision of High Court Gujarat has been accepted by the department as communicated vide Board Circular No. 1063/2/2018-CX dated 16.02.2018.

8. Government finds that the original authority has not passed order on merits in these cases. Therefore, the said claims are required to be examined on merit in accordance with the law by treating them filed within the stipulated time limit of one year.

9. Government remands these cases back to original authority for fresh consideration on merits in accordance with law after taking into account the above said observations. A reasonable opportunity of hearing will be afforded to the parties.

10. In view of the above, the impugned OIA No. SK/55 to 58/M-I/2016 dated 30.06.2016 passed by the Commissioner (Appeals), Central Excise, Mumbai-I is upheld. The revision application filed by the Department is disposed off as being devoid of merits.


(SHRAWAN KUMAR)
Principal Commissioner & Ex-Officio
Additional Secretary to Government of India

ORDER No. 1253 - 1256/2022-CX(SZ) /ASRA/Mumbai DATED 29.12.2021

To,
M/s. Cipla Ltd.
Mumbai Central,
Mumbai - 400 008.

M/s. Cipla Ltd.
Raj Plaza, 3rd Floor,
Opp Everest Masala Factory,
LBS Marg, Vikroli(W)
Mumbai - 400 083.

Copy to:

- 1) Principal Commissioner of Central Excise, Mumbai -I.
- 2) The Commissioner (Appeals), Central Excise, Mumbai-I
- 3) Sr. P.S. to AS (RA), Mumbai.
- 4) Guard File.
- 5) Spare Copy.