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GOVERNMENT OF INDIA
MINISTRY OF FINANACE
DEPARTMENT OF REVENUE

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

F.No.195/297 & 299/13-RA / 261 / Date of Issue: 07/05/2018.

ORDER NO.148-149/2018/CX(WZ)/ASRA/MUMBAI DATED 27.04.2018, OF THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF CENTRAL EXCISE ACT,1944.

Sl. No	Revision Application No.	Applicant	Respondent
1.	195/297/13-RA	M/s. Tata BlueScope Steel Ltd.	Commissioner, C Ex, Pune-I.
2.	195/299/13-RA	M/s. Tata BlueScope Steel Ltd.	Commissioner, C Ex, Pune-I.

Subject : Revision Applications filed, under Section 35EE of Central Excise Act, 1944 against the Order -in-Appeal No. Order-In-Appeal No.. P-I / MMD / 232/ 2012 dated 30.11. 2012 and P-I / MMD / 234/ 2012 dated 30 November 2012 passed by the Commissioner, Central Excise, (Appeals) Pune-I.

ORDER

These Revision applications are filed by M/s. Tata BlueScope Steel Ltd.,Pune (hereinafter referred to as 'applicant') against the Orders-in-Appeal as detailed in Table below, passed by the by the Commissioner, Central Excise, (Appeals), Pune-I.

TABLE-1

Sl. No	Revision Application No.	Order-in-appeal No. & Date	Order-in-original No. & Date	Amount of rebate (Rs.)
1	2	3	4	5
1	195/297/13-RA	Order-In-Appeal No. P-I / MMD / 232/ 2012 dated 30.11. 2012	P-1/Div. IV/Reb/193/2012 dated 02.08.2012	153,573/-
3.	195/299/13-RA	Order-In-Appeal No. P-I / MMD / 234/ 2012 dated 30.11. 2012	P-1/Div. IV/Reb/188/2012 dated 27.07.2012	3,31,138/-

2. The brief facts of the case is that the applicant had procured Color Coated Steel Coils ("subject goods") from Ispat Industries Limited and exported it without using the same ("inputs removed as such") to M/s BlueScope Lysaght (Lanka) Pvt. Ltd. outside India.The applicant, exported the subject goods outside India and filed a Rebate claims before the jurisdictional Central Excise Divisional Office for the Central Excise duty paid on such supplies made under Rule 18 of Central Excise Rules, 2002 ("Excise Rules") [read with Notification No. 19 / 2004-CE (NT) dated 6 September 2004 ("the Notification")].

3. The Deputy Commissioner, Central Excise, Pune-IV Division however, vide Orders in Original ("OIO") shown at (4) of the above table rejected the rebate claims.

4. Being aggrieved by the aforestated Orders-in-Original the applicant filed an appeal before Commissioner (Appeals), Central Excise, Pune-I. The

Commissioner (Appeals) vide impugned orders (No. 3 of the table above) upheld the Orders in Original , rejecting the Appeal filed by the applicant on the following grounds:-

- The export of subject goods does not fall within the scope of Rebate claim in terms of Rule 18 of the Excise Rules, 2002.
- The Applicant has not made payment of Excise duty in terms of Rule 8 of the Excise Rules and reversal of CENVAT credit under Rule 3(5) of the CENVAT Credit Rules, 2004 ("CCR, 2004") does not amount to payment of duty in terms of Rule 18 of the Excise Rules,2002.

5. Being aggrieved by the impugned Orders-in-Appeal, the applicant has filed this revision application under Section 35 EE of Central Excise Act, 1944 before Government on the following common grounds that:-

5.1 it was mandatory on the part of the Original Authority to issue a SCN and seek explanation for queries raised by him before passing the OIO. However, the Original Authority in complete disregard of the provisions of the Act and the customary principles of natural justice passed the OIO.

5.2 the passing of the OIO ex-parte in violation of the natural justice principles is an issue that goes to the root of the matter which cannot be remedied at the appellate stage. In this regard, the applicant referred the case by the Hon'ble Tribunal in **Steel Fittings Mfg. Co. Ltd. v. CCE, Kolkata reported in 2008(227) ELT 544 (Tri)** and demanded the same to be quashed for violation of natural principles of the applicant.

5.3 it is a settled law that natural justice for administration of justice as has been laid down by the Hon'ble Supreme Court, in the case of **Canara Bank v. Debasis Das reported in (2003) 4 SCC 557 and Union of India v. Tulsiram Patel reported in AIR 1985 SC**

1416. The applicant also referred the decision of the Hon'ble Supreme in the case of **Uma Nath Pandey V/s State of U.P. reported in (2009 (237)E.L.T. 241 (S.C))** wherein Hon'ble Supreme Court has categorically held that an order is void if passed without issuing notice and without giving an opportunity of being heard to the other party. It has been held that it is basic principle of natural justice which means that 'no one should be condemned unheard'. Therefore, a violation of the natural justice strikes at the root of the OIO which has been passed without granting the Applicant the opportunity to be heard, and the OIO deserves to be set aside in accordance with the settled principles laid down in the above decisions of the Court.

5.4 they procured the subject goods (inputs) for use in manufacture of PEB. However, the applicant exported the subject goods 'as such' upon reversing CENVAT credit availed thereon (without using the same in manufacture of PEB). Upon export, the Applicant filed Rebate claim for the Excise duty paid while procuring the subject goods.

5.5 the Rebate claim has been rejected on the ground that export of 'inputs as such' is not covered by the Rule 18 of the Excise Rules. Further, the OIA stated that Rebate claim is admissible only for the Excise duty paid:

a) on inputs, raw-materials, consumables and packing material etc when used in manufacture/processing of final products exported; or

b) on final products exported

5.6 Rule 18 of Excise Rules clearly states that Rebate of duty are admissible in case of export of "any excisable goods" i.e. any goods which are liable to Excise duty and have suffered such duty while

exporting the same. Thus it can be understood that the intention is to make the duty incidence 'Nil' on goods to be exported.

5.7 the applicant submitted that it is a settled legislative policy not to export taxes. It is the intention of the government to export goods and not taxes. In this regard, the Applicant referred the decision of the Hon'ble Bombay High Court in the case of **Repro India Limited vs. UOI [2009 (235) E.L.T 614 (Bom)]**.

5.8 The applicant submitted that Rule 18 of the Excise Rules does not restrict Rebate for inputs exported 'as such' and whereas suggests that Rebate is admissible in respect of 'any excisable goods' exported.

5.9 the goods on which CENVAT credit is availed are required to follow the procedure prescribed under the CCR, 2004. As per Rule 3(5) of the CCR, 2004; when inputs or Capital Goods on which CENVAT credit has been availed, are removed 'as such' from the factory of a manufacturer, shall pay an amount equal to the CENVAT credit availed thereon. Further, the goods should be removed under a cover of an invoice as per Rule 9 of the CCR, 2004.

5.10 That Rule 3(6) of the CCR, 2004 clearly states that the amount paid under Rule 3(5) of the CCR, 2004 shall be eligible as CENVAT credit to the person procuring the goods as if it was a duty paid by the person removing such goods.

5.11 it is evident that Cenvated inputs/Capital Goods are removed as such from the factory requires reversal of credit / payment of duty to the extent CENVAT credit availed on the receipt of the said goods. Further, as Rule 3(6) empowers the subsequent receiver to avail CENVAT credit of the duty so reversed, clearly considers such removal as clearance from the manufacturers premise itself.

5.12 The Applicant placed reliance in the case of **CCE, Raigad vs. Micro Inks Ltd, Mumbai, GOI (2011-TIOL-199-MUM-HC)** and

Government of India Circular No. 283/117/96-CX, dated 31 December 1996 which provides that the export of inputs as such under bond shall be treated as final product by way of deemed export. Based on the facts in the present case and the aforesaid decision, it is evident that subject goods exported by the Applicant on payment of duty [by way of reversal of CENVAT credit under Rule 3(5) of the CCR, 2004] would be eligible for Rebate of duty under Rule 18 of the Excise Rules.

5.13 the stand taken by the Commissioner in the OIA; that Rebate is admissible only for the Excise duty paid on final products exported or on inputs used in the manufacture of final products exported does not hold good and is without authority of law. That a merchant exporter / export trader who procures goods from a manufacturer on payment of Excise duty and claims Rebate of the same can be equated with the present facts.

5.14 they procured the goods from the vendor on payment of duties and then exported them in as is basis. Therefore, the eligibility for Rebate in the present facts should not be disputed as to that extent the activity of the applicant is in line with the merchant exporter / trader of goods.

5.15 it is clearly evident from the language of the Rule 18 of Excise Rules that not only manufacture exporter, but trader / merchant exporter is also eligible to claim Rebate claim of the duties suffered on the product exported. In this regard, the Applicant placed reliance on the case of **CCE vs. Sipra Engineers (2008) 15 STT 467 (CESTAT SMB)**; wherein it was held that Rebate is allowable even if export is through merchant exporter.

5.16 if goods in dispute would have been exported under Rule 19 of Excise Rules i.e. under Letter of Undertaking / General bond, then CENVAT Credit would be available to the Applicant and no reversal

would be required. Thus, there is no loss of CENVAT Credit to the Applicant. On the contrary, if Appellants decides to exports the same under Rule 18 of Excise Rules i.e. under Rebate on payment of Central Excise, then Rebate of Central Excise duty paid would not be available and subsequently, substantial loss of CENVAT Credit to the Applicant.

5.17 Rule 18 and Rule 19 of Excise Rules are *parimateria* in subject (deals with exports of goods) but provides two different options to the Assessee to export the goods. Rule 18 of Excise Rules provides option to export the goods on payment of Central Excise duty whereas Rule 19 of Excise Rules grants permission to export goods without payment of duty under bond. The entitlement of benefit cannot be denied to the Applicant.

5.18 they exported the subject goods on reversal of applicable CENVAT credit as per Rule 3(5) of the CCR, 2004 and filed the Rebate claim for the duty suffered thereon. The said claim was rejected on the ground that the reversal of CENVAT credit does not amount to payment of Central Excise duty as prescribed under Rule 8 of the Excise Rules.

5.19 Rule 3(5) of the CCR, 2004 prescribes that when Inputs or Capital Goods on which CENVAT credit has been availed, are removed as such from the factory of a manufacturer, shall pay an amount equal to the CENVAT credit availed thereon.

5.20 Further, Rule 3(6) of the CCR, 2004 clearly states that the amount paid under Rule 3(5) of the CCR, 2004 shall be eligible as CENVAT credit to the person procuring the goods as if it was a duty paid by the person removing such goods. It is clear that in the present facts, the Applicant had removed the subject goods on reversal / payment of duty equal to the CENVAT credit availed thereon and complied the requirements of the above Rules.

5.21 even under the erstwhile CENVAT Credit Rules, 2002 ('CCR, 2002') and the MODVAT Scheme under the Central Excise Rules 1944 ("CCR, 1994"), similar provisions were prescribed. Thus, the intention of the Government has always been to prescribe that reversal of CENVAT should be treated as payment of duty itself.

5.22 In this regard, the Applicant placed reliance on the case of **Micro Inks Ltd** discussed above; wherein the Hon'ble Bombay High Court discussed the dispute under the erstwhile MODVAT Scheme on eligibility of Rebate on inputs/Capital Goods exported as such on payment of an amount equal to the credit availed thereon. The Hon'ble High Court confirmed that a manufacturer who exports inputs/Capital Goods 'as such' on reversal/payment of duty equal to the credit availed would be eligible for Rebate claim.

5.23 the Hon'ble High Court further confirmed that, since, Rule 3(4) of the CCR, 2002 is *parimateria* with Rule 57(1)(ii) of the Excise Rules it is evident that inputs/Capital Goods when exported on payment of duty under Rule 3(4) of CCR, 2002, Rebate of that duty would be allowable as it would amount to clearing the inputs/Capital Goods directly from the factory of the deemed manufacturer.

5.24 as they have exported the goods on payment of duty (i.e. by reversing the CENVAT credit availed thereon), the OIA shall be set aside. That the Commissioner has relied upon the procedure prescribed under Chapter 8 of the CBEC's Central Excise Manual and rejected the Appeal stating that reversal of CENVAT credit by the Applicant does not amount to Excise duty as per Rule 8 of the Excise Rules.

5.25 Rule 8 of the Excise Rules prescribes the *'manner of payment'* of duty on the goods removed from the factory. The said Rule prescribes the time limit for payment of duty on the removal of goods from the factory and the penal provisions in case of default

The Explanation provided under the said Rule states that for the purpose of this Rule, expressions 'duty' or 'duty of excise' shall also include the amount payable in terms of the CCR, 2004.

5.26 it cannot be disputed that removal of goods on reversal of CENVAT credit does not amount to payment of duty under the Rule 8 of the Excise Rules. Further, Rule 3(6) of the CCR, 2004 prescribes that where the amount paid under Rule 3(5) shall be eligible as CENVAT credit as if it was a duty paid by the person removing such goods.

5.27 where the intention of allowing CENVAT credit (as per Rule 3(6) of CCR, 2004) to the subsequent receiver flows from the reason that duty has been paid by the person removing such goods (as deemed manufacturer) would not hold good if such reversal of credit does not amount to payment of duty as per Rule 8 of the Excise Rules.

5.28 it is a settled principle that reversal of CENVAT credit amounts to payment of duty and reliance by the Commissioner on the procedure under the CBEC's Central Excise manual and Rule 8 of the Excise Rules for rejection of Rebate claim does not have any legal sanity.

5.29 The Hon'ble Bombay High Court while deciding the case of **Micro Inks Ltd** also held that revenue's contention that reversal if CENVAT credit does not amount to payment of duty for allowing Rebate is without any merits. They also placed reliance on **Ford India Pvt Ltd vs. Assistant Commissioner of Excise, Chennai [2011 (272) ELT 353 (Mad)]**; and **IN RE: Ispat Industries Ltd [2007 (216) ELT 493 (Commr Appl.)]**

5.30 The Applicant further submitted that reversal of CENVAT Credit under Rule 3(5) of CCR, 2004 tantamount to payment of Central Excise duty and therefore CENVAT Credit of the same would be available to the purchaser of the said goods. If argument put forth

by the Commissioner to be accepted, i.e. reversal of CENVAT Credit does not amount to payment of Central Excise duty, for the time being and without admitting then it leads to absurdity because in such scenario no CENVAT Credit would be available to the purchase of the said goods and the same is not the intention the legislators. Therefore, Rule 3(6) of CCR, 2004 specifically states that the CENVAT Credit reversed under Rule 3(5) of CCR, 2004 is available as CENVAT Credit to the person procuring the said goods as if it is a duty paid by the person removing such goods.

5.31 the Applicant is perplexed on the rejection of Rebate by the Original Authority on the basis of applicability of provisions of unjust enrichment. The Applicant failed to understand correlation of provisions of unjust enrichment in the present sets of fact and may be further explanation from the Commissioner would help to understand it completely.

5.32 the Applicant had reversed CENVAT credit to the tune of INR 1,53,573/- on export of the subject goods and thus, claimed Rebate of Central Excise duty paid on goods as per Rule 18 of Excise Rules read with relevant notification.

5.33 The OIO itself at paragraph 5, states that the Applicant has reversed the CENVAT credit as per Rule 3(5) / 3(6) of CCR, 2004. Further, the Original Authority themselves have acknowledged at paragraph 2, the receipt of self-attested copy of the CENVAT credit register (for the month of May 2011) duly verified by the range superintendent showing debit entry no. 964 and 965 dated 31 May 2011 for the duty payment on goods exported.

5.34 the applicant fails to understand how the provisions of unjust enrichment will apply in the present facts. It is submitted that on reversal / payment of duty the goods have exported out of India and subsequently, the Applicant approached to the Original

Authority to sanction Rebate of Central Excise duty paid on export of the goods. The Original Authority has rejected the said Rebate claim. Further Applicant filled an Appeal against the OIO to the Respondent. Respondent has further rejected the Appeal and at present the Applicant is deprived of Central Excise duty paid of export of goods. The Applicant therefore submits that in the present facts the goods have been exported under Rebate. Thus, evidently there would be no unjust enrichment in case the Rebate claim is sanctioned. The applicant fails to understand how the provisions of unjust enrichment will apply in the present facts

5.35 that the entire basis of rejection of the Rebate claim in the OIA is unsustainable and based on frivolous grounds. There is a well settled position in law that due to a mere procedural lapse, substantial benefit like Rebate of duty paid on Export goods cannot be denied.

5.36 the Applicant exported / supplied goods to the Customer in terms of the provisions prescribed under Rule 18 of the Excise Rules. The Applicant also followed procedure mentioned in the Notification wherein a detailed procedure for Export of goods on payment of duty has been mentioned. The Applicant had prepared ARE-1 documents, etc as mentioned in the Notification and exported the goods to the Customer. That the OIA has nowhere alleged that export has not taken place, but a mere procedural lapse has been alleged. The Department itself has appreciated in the OIA that the goods have been exported.

5.37 the Applicant placed reliance on the decision of the Hon'ble Supreme Court in **Mangalore Chemicals and Fertilizers Limited V/s Original Authority [1991 (55)E.L.T. 437 (S.C)]**; wherein it has been held that procedural condition of technical nature is condonable while substantive condition is not condonable. In the

present facts, the substantive condition of export has been fulfilled by the Applicant and the Department seeks to deny the Rebate Claim on lapse of procedural conditions. The Applicant further placed reliance of the following cases:

- **Birla VXL – 1998 (99) E.L.T. 387 (Tri)**
- **Alpha Garments -1996 (86)E.L.T. 600 (Tri)**
- **Atma Tube – 1998 (103) E.L.T. 270**
- **Creative Mobous – 2003 (58) R.L.T. 111 (GOI)**
- **Ikea Trading India Ltd. – 2003 (157)E.L.T. 359 (GOI)**
- **IN RE: Commissioner of Central Excise, Bhopal – 2006 (205) E.L.T. 1093 (G.O.I.)**
- **IN RE : Modern Process Printers - 2006 (204) E.L.T. 632 (G.O.I.)**
- **IN RE: Cotfab Exports [2006 (205) E.L.T. 1027 (G.O.I.)**

6. A Personal hearing in the matter was fixed on 08.03.2018. Mr. Vijay Jangam, Manager, Finance, Mr. Vishal Kulkarni, Advocate and Ms. Kehkasha Sehgal, Advocate appeared for the personal hearing on behalf of the applicant. No one was present from the respondent's side (Revenue). The applicant reiterated the submissions filed in the instant revision application and case law 2011(270) ELT 360(BOM) HC, Mumbai. They pleaded that OIA be set aside and RA filed by them be allowed.

7. The issue involved in both these Revision Applications being common, they are taken up together and are disposed off vide this common order. Government has carefully gone through the relevant case records available in case files, oral & written submissions and perused the impugned Order-in-Original and Order-in-Appeal.

8. On perusal of records, Government observes that the Original authority has contended that the goods exported by the respondent are inputs procured by the manufacturer and removed as such for export. He has further observed that the applicant has not paid the duty as per Rule 8 of the Central Excise Rules, 2002, but they have reversed the amount of Cenvat credit from the Cenvat account attributable to the quantity of 'Input as such' cleared for export as per Rule 3(6) of Cenvat Credit Rules, 2004. So the reversal of amount of credit on removal of input 'as such' and exported does not represent excise duty and hence provisions of Rule 18 of the Central Excise Rules, 2002, is not applicable to the rebate claims filed by the assessee.

9. Government also observes that the Commissioner (Appeals) vide impugned orders also rejected the Appeal filed by the applicant on the following grounds:

- The export of subject goods does not fall within the scope of Rebate claim in terms of Rule 18 of the Excise Rules, 2002.
- The Applicant has not made payment of Excise duty in terms of Rule 8 of the Excise Rules and reversal of CENVAT credit under Rule 3(5) of the CENVAT Credit Rules, 2004 ("CCR, 2004") does not amount to payment of duty in terms of Rule 18 of the Excise Rules,2002.

10. Government observes that the issue has now been settled by Hon'ble High Court of Bombay in its order, dated 23-3-2011 in the case of *CCE, Raigarh* v. *Micro Ink Ltd.* in W.P. No. 2195/2010, reported as 2011 (270) E.L.T. 360 (Bom.). In the said writ petition Commissioner of Central Excise, Raigarh had challenged the GOI Order No. 873/10-CX., dated 26-7-2010 passed in the case of *M/s. Micro Inks* with respect to Order-in-Appeal No. SKS/244/RGD/2008, dated 30-4-2008 passed by Commissioner of Central Excise (Appeals) Mumbai Zone-II. Government had held in the said order dated 26-5-2010 that amount reversed under Rule 3(4)/3(5) of Cenvat Credit

Rules, 2004 is to be treated as payment of duty for the purpose of Rule 18 of Central Excise Rules, 2002 read with Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004. This view of the Government is upheld by Hon'ble High Court of Bombay in the above said judgment. The observations of High Court in paras 16 to 19 of said order are reproduced below :-

> *"16. Since rule 3(4) of the 2002 Rules is pari materia with Rule 57(1)(ii) of the Central Excise Rules, 1944 it is evident that inputs/capital goods when exported on payment of duty under Rule 3(4) of 2002 Rules, rebate of that duty would be allowable as it would amount to clearing the inputs/capital goods directly from the factory of the deemed manufacturer. In these circumstances, the decision of the Joint Secretary to the Government of India that the assessee who has exported inputs/capital goods on payment of duty under Rule 3(4) & 3(5) of 2002 Rules (similar to Rule 3(5) & 3(6) of 2004 Rules) therefore entitled to rebate of that duty cannot be faulted.*
>
> *17. The contention of the revenue that the payment of duty by reversing the credit does not amount to payment of duty for allowing rebate is also without any merit because, firstly there is nothing on record to suggest that the amount paid on clearance of inputs/capital goods for export as duty under Rule 3(4) & 3(5) of 2002 Rules cannot be considered as payment of duty for granting rebate under the Cenvat Credit Rules. If duty is paid by reversing the credit it does loose the character of duty and therefore if rebate is otherwise allowable, the same cannot be denied on the ground that the duty is paid by reversing the credit. Secondly, the Central Government by its circular No. 283/1996, dated 31st December, 1996 has held that amount paid under Rule 57F(1)(ii) of Central Excise Rules, 1944 (which is analogous to the Cenvat Credit Rules, 2002/Cenvat Credit Rules, 2004) on export of inputs/capital goods by debiting RG 23A Part II would be eligible for rebate. In these circumstances denial of rebate on the ground that the duty has been paid by reversing the credit cannot be sustained.*
>
> *18. The argument of the Revenue that identity of the exported inputs/capital goods could not be correlated with the inputs/capital goods brought into the factory is also without any merit because, in the present case the goods were exported under ARE 1 form and the same were duly*

certified by the Customs Authorities. The certificate under the ARE 1 form is issued with a view to facilitate grant of rebate by establishing identity of the duty paid inputs/capital goods with the inputs/capital goods which are exported.

19. For all the aforesaid reason, we see no infirmity in the order passed by the Joint Secretary to the Government of India. Accordingly rule is discharged with no order as to costs."

12. Government finds that the ratio of the abovesaid order of Hon'ble High Court of Bombay is squarely applicable to this case. Government therefore holds that the reversal of Cenvat Credit under Rules 3(4) and 3(5) is nothing but payment of duty on the goods exported. Government also observes that Special Leave Petition (SLP) seeking interim relief filed by the department before Hon'ble Supreme Court [SLP(C) 5159/2012 Commr. of Central Excise, Raigad Vs Micro Inks *Ltd. &Anr.*] against Hon'ble Bombay High Court's Order dated 23.03.2011 in Writ Petition No. 2195 of 2010, has been dismissed vide Order dated 25.11.2013 on the ground that there was no reason to entertain this Special Leave Petition. The Hon'ble Supreme Court's Order dated 25.11.2013 was accepted by the Commissioner, Central Excise Raigad Commissionerate on 07.01.2014 and hence the Hon'ble Bombay High Court's Order in CCE Raigad v/s Micro Inks Ltd.2011 (270) E.L.T. 360 (Bom.), has attained finality. Following ratio judgement of the same, Government holds that the order of Commissioner (Appeals) is not proper and legal, hence, liable to be set aside.

13. Since the fundamental requirement of export of duty paid goods gets satisfied in these cases for claiming rebate claim under Rule 18 of Central Excise Rules, 2002, therefore, Government observes that rebate claims are admissible to the applicant under Rule 18 of Central Excise Rules, 2002 read with Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 and doctorine of unjust enrichment is not applicable in the matters of exports, as stands specified in the first proviso to sub-section (2) of Section 11(B) of Central Excise Act, 1944. Therefore, the Government holds that the impugned orders passed

by the Commissioner (Appeals) are liable to be set aside and the two instant Revision applications are liable to be allowed with consequential relief.

14. Hence, in light of above discussion Government sets aside the impugned orders of Commissioner (Appeals).

15. Revision applications thus succeed in above terms with consequential relief.

16. So, Ordered.

27.4.18

(ASHOK KUMAR MEHTA)
Principal Commissioner & ex-Officio
Additional Secretary to Government of India

ORDER No. 146-149/2018-CX (WZ) /ASRA/Mumbai DATED, 27.4.2018

To,

M/s Tata Blue Scope Steel Limited,
247 & 25, Hinjewadi, Taluka : Mulshi,
Pune 411 057.

True Copy Attested

11/5/18

एस. आर. हिरूलकर
S. R. HIRULKAR
(A-C)

Copy to:

1. The Commissioner of CGST, Pune-I Commissionerate, GST Bhavan,ICE House, Opp. Wadia College, Pune 411 001.
2. The Commissioner of CGST (Appeals-I) Pune, GST Bhavan,ICE House, Opp. Wadia College, Pune 411 001
3. The Deputy / Assistant Commissioner Division II (Pimpri Division), CGST Pune-I Commissionerate.
4. Sr. P.S. to AS (RA), Mumbai
5. Guard file
6. Spare Copy.