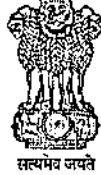


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**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE**

**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.198/04/WZ/2021/1790

Date of Issue: 11.05.2022

ORDER No. 417 /2022-CX (WZ) /ASRA/Mumbai DATED 10.05.2022
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 : Assistant Commissioner,
CGST & Central Excise, Division Satna,
C.R. Building, Civil Line,
Satna - 485001. (M.P.)
- Respondent : M/s ACC Limited, (Unit: Kymore, Cement Works),
P.O. Kymore, Katni,
M.P. - 483880.
- Subject : Revision Application filed under Section 35EE of the
Central Excise Act, 1944 against the Order-in-Appeal
no.BHO-EXCUS-01-APP-030-21-22 dated 27.05.2021
passed by the Commissioner (Appeals), GST & Central
Excise, Bhopal (M.P.).

ORDER

The subject Revision Application has been filed by the Assistant Commissioner, CGST & Central Excise, Division Satna, M.P., (here-in-after referred to as 'the applicant') against the Order-in-Appeal dated 27.05.2021 passed by the Commissioner (Appeals), GST & Central Excise, Bhopal, M.P., which decided an appeal filed by M/s ACC Limited, (Unit: Kymore, Cement Works), P.O. Kymore, Katni, M.P. - 483880 (herein-after referred to as 'the respondent') against the Order-in-Original dated 30.06.2020 passed by the Assistant Commissioner, CGST & Central Excise, Division - Satna, which in turn decided Show Cause Notice dated 16.04.2019 issued to the respondent.

2. Brief facts of the case are that the respondent company had filed seven rebate claims for an amount of Rs.1,04,02,152/- with respect to goods exported by them. A Show Cause Notice dated 18.03.2016 seeking to reject the said claims on the basis of the deficiencies noticed during scrutiny was issued to the respondent. The same was decided vide Order-in-Original dated 30.06.2016 by the then Deputy Commissioner, Central Excise & Service Tax, LTU, Mumbai, wherein the said seven claims were rejected. Aggrieved, the respondent filed an appeal before the Commissioner (Appeals), Bhopal which was decided vide Order-in-Appeal No.BHO-EXCUS-001-APP-152 & 153-18-19 dated 29.06.2018. The Commissioner (Appeals) vide the said Order directed the rebate sanctioning authority to sanction the rebate claims after verification of the relevant Central Excise Invoices with the ARE-1's and Bills of Export. The Department too had filed an appeal against the Order-in-Original dated 30.06.2016 with respect to the claims which were sanctioned; however the same was rejected by the Commissioner (Appeals) vide the said Order-in-Appeal dated 29.06.2018.

3. The LTU, Mumbai having ceased to exist, the respondent submitted the seven rebate claims along with relevant documents in terms of Order-in-Appeal dated 29.06.2018 on 06.08.2018 before the jurisdictional authority, i.e. the Deputy Commissioner, CGST & Central Excise, Satna, M.P. Thereafter, a Show Cause Notice dated 16.04.2019 was issued to the respondent by the Joint Commissioner, CGST & Central Excise, Division – Satna, seeking to reject the said rebate claims on the ground that the respondent had failed to furnish the relevant Bank Realization Certificates (BRCs). The same was adjudicated by the Assistant Commissioner, CGST & Central Excise, Satna vide Order-in-Original dated 30.06.2020 wherein all the seven claims were rejected once again.

4. The respondent preferred an appeal against the said Order-in-Original dated 30.06.2020 before the Commissioner (Appeals) resulting in the Order-in-Appeal dated 27.05.2021, wherein it was held that the original Adjudicating Authority had erred in rejecting the rebate claims on the grounds of non-production of BRCs; and also for the reason that, in terms of Order-in-Appeal dated 29.06.2018, which had been accepted by the Department, the sanctioning authority was only required to verify the Central Excise Invoices with the ARE-1's and Bills of Export and hence the action initiated by the issue of a fresh Show Cause Notice was not permissible. In light of these observations, the Commissioner (Appeals) set aside the Order-in-Original dated 30.06.2020 and held that the respondent was eligible to the rebate claimed by them along with applicable interest.

5. Aggrieved, the applicant has filed the present Revision Application against the impugned Order-in-Appeal on the following grounds:-

(a) The Commissioner (Appeals) had erred in holding that the adjudicating authority was not right in rejecting the rebate claim on the ground of BRC, as Board's Circular No. 354/70/97-CX dated 13.11.1997 had clarified as under :-

“2.3.2 If TR copy or Bank Realisation Certificate is not received within 160 days of the date of sanction of rebate, action for recovery of rebate shall be initiated well within the limitation period.

2.3.3 In case TR copy or Bank Realisation Certificate is not received within 180 days of clearance for exports, where exports are effected under bond, action for recovery should be taken in terms of Rule 14A of the Central Excise Rules, 1944.”

(b) The Reserve Bank of India vide its Circular AP (DIR Series) No. 50 dated 03.06.2008 had extended the period of realization and repatriation to India of the amount representing the full export value of goods or software exported, from six months to twelve months from the date of export, subject to review after one year;

(c) The Board vide above mentioned para 2.3.2 and para 2.3.3 of Circular No. 354/70/97-CX dated 13.11.1997 had clarified that if BRCs is not received within stipulated period necessary action may be initiated within the limitation period for recovery of the rebate; similarly, if BRCs was not received within the time stipulated by the above mentioned RBI Circular necessary action for recovery should be taken in terms of Rule 14A of the Central Excise Rules; that in the instant case the stipulated period of one year for the realization of export proceeds had been exceeded much before issue of the show cause notice and hence the adjudicating authority had rightly asked for the BRCs in respect of rebate claims filed by the respondent;

(d) The Show Cause Notice dated 16.04.2019 had been issued to protect the interest of revenue in terms of the above CBEC circular as the period of twelve months from the date of export was over and the BRCs should have been produced by the respondent, which they did not and hence they were not eligible to the rebate claim;

(e) The directions of Commissioner (Appeals), Bhopal while remanding the rebate/refund matter to original adjudicating authority was in the context of filing of complete rebate/refund claim; that since the refund claim had been processed in remand proceedings after one year from the date of export, the mandatory requirement of production of BRC in terms of the above mentioned CBEC & RBI circulars became operational; that the Commissioner (Appeals) had neglected this requirement while remanding the case back to the original Adjudicating Authority and hence was not legal, proper and correct;

(f) The Order-in-Original dated 30.06.2020 vide which the rebate/refund claim has been rejected by the Assistant Commissioner has not exceeded the directions of the Commissioner (Appeals) in remand proceedings inasmuch as the directions of the Commissioner (Appeals) were in the context of original refund claim filed and processed within one year of export, but the Show Cause Notice dated 16.04.2019 has been issued on the issue of production of BRC which is integral to the process of sanction of rebate, after one year of date of export; that BRC may not be specifically mentioned in the list of essential documents to be submitted with the rebate claim at the time of its filing which is normally within one year, but it is mandatory requirement to be fulfilled by the exporter to whom the rebate is sanctioned, after one year of export; hence at the time of sanction of rebate claim in remand proceedings which was after one year of export, production of BRC became integral part of rebate sanctioning process; that the Commissioner (Appeals) had erred in holding that the rebate claim should be sanctioned first and then Show Cause Notice issued in case the respondent was not in a position to produce the BRC showing realization of export proceeds;

(g) As per the CBIC website, in the list of documents to be submitted for claiming rebate of duty paid on goods exported under Rule 18 of CER 2002 and Notification No. 19/2004 CE (NT) dated 06.09.2004, though BRC is not

specifically mentioned, yet BRC was one of the vital documents to monitor the realization of export proceeds when the rebate claim was being processed after one year of export and thus it could not be held that rebate ought to be sanctioned without seeking BRC in such cases;

(h) As per condition at para 2(g) of Notification No.19/2004-CE(NT) dated 06.09.2004, rebate of duty paid on those excisable goods export of which is prohibited under any law for the time being in force, shall not be made and as per Regulation 3 of Foreign Exchange Management Act (Goods & Services) Regulations, 2000 a declaration in form GR/SDF was to be submitted to the Customs, inter alia, affirming that the full export value of the goods or software has been or would be paid within the specified period. As per Section 8 of Foreign Exchange Management Act, 1999, where any amount of foreign exchange is due or has accrued to any person resident in India, such person shall take all steps to realize and repatriate to India, such foreign exchange within time period prescribed by RBI; and that Section 13 of Foreign Exchange Management Act stipulates penalty provision for non-realization of foreign exchange. These provisions of the Foreign Exchange Management Act made it clear that the export of goods without realization of export proceed was not permitted and hence in such cases, the rebate could not be granted in terms of para 2(g) of Notification No. 19/2004-CE (NT) dated 06.09.2004 and hence the adjudicating authority had correctly asked for the BRCs from the respondent and since they failed to submit the relevant BRCs after more than six years from date of export, the adjudicating authority had correctly rejected their rebate claims.

(i) The observation of the Commissioner (Appeals) that the adjudicating authority has traversed beyond the directions issued by the Commissioner (Appeals) in the Order-in-Appeal dated 29.06.2018 did not appear to be correct, legal and proper as the claims for rebate were filed afresh by the respondent and the same was verified as per procedure and also subjected

to pre-audit wherein the objection of non-availing of BRCs was pointed out and that letters dated 31.01.2019 and 18.02.2019 were written to the respondent by the Range Officer even before issuance of the Show Cause Notice dated 16.04.2019; that it was on record that the respondent had not submitted the BRCs, which indicated that the export proceeds have not been realized even after one year of the time limit prescribed by the RBI; that the Commissioner (Appeals) had not caused any verification to know or to ascertain as to whether the export proceeds have been realized by the appellant as per the instructions of the Reserve Bank of India and hence the order of Commissioner (Appeals) setting aside the order of rebate sanctioning authority was improper and deserves to be set aside as the same has been passed without proper verification of the documents and without considering whether the respondent had complied with the mandatory requirements of the Circular / instructions referred to above;

(j) It was evident that the respondent had filed fresh rebate claim amounting to Rs.1,40,02,152/-, and they have been intimated by the Department before issuing Show Cause Notice vide various letters about the requirement of BRCs in sanctioning of the rebate claim in case when the export realization have not been received within one year and therefore the claim of the appellant that the Show Cause Notice was issued on an entirely new ground was not sustainable.

(k) Reliance was placed on Revision Order No. 17-19/2016-CX dated 28.01.2016 of the Government of India passed by the Joint Secretary to the Government of India, in the Case of Commissioner of Central Excise, Bangalore V/s M/s. Glove Technologies, wherein a similar issue was decided in favour of the Department;

(l) Since the rebate claims itself were not payable, the question of payment of interest on the same also did not arise.

In view of the above the applicant prayed for the impugned Order-in-Appeal to be set aside.

6. Personal hearing in the matter was granted to the applicant on 27.04.2022, 28.04.2022 and on 04.05.2022. The applicant reiterated their submissions. Shri Pradeep Sawant, Dy. General Manager (Indirect Taxation) appeared for the hearing on behalf of the respondent. He reiterated their earlier submissions and also submitted additional written submissions mentioning several case laws where it has been held that once appellate order has attained finality same has to be given effect to. He also submitted copy of letter dated 31.05.2019 showing that even Bank Realization Certificate for the relevant period had also been submitted. He requested to uphold Commissioner Appeal's Order.

7. The Respondent at the time of Personal Hearing held on 04.05.2022, submitted written submissions and the gist of the same is as follows:

a) The Respondent submitted that during the period Sept-13 to Mar-14 they exported goods to Nepal from its factory at Kymore on payment of Excise Duty under claim for Rebate. Against such export, the Respondent had filed 7 Applications claiming Rebate of Excise Duty paid on export of goods in terms of Notification No. 19/2004-CE (NT) dated 06.09.2004 as amended by Notification No. 24/2011-CE(NT) dated 05.12.2011 issued under Rule 18 of Central Excise Rules, 2002 read with Section 11B of the Central Excise Act, 1944. A Show Cause Notice dated 18.03.2016 was issued proposing to deny the Rebate claim by the Deputy Commissioner of Central Excise & Service Tax, LTU Mumbai on the procedural grounds. The Deputy Commissioner, LTU Mumbai rejected Respondent Rebate Claim vide Order-in-Original (OIO) dated 30.06.2016. The Commissioner (Appeals), Bhopal vide Order-in-Appeal No. BHO-EXCUS 001-APP-152 & 153-18-19 dated 29.06.2018 set aside the Order-in-Original dated 30.06.2016 with the directions to the

'Rebate Sanctioning Authority' to sanction the rebate of duty after verification of Central Excise Invoices with ARE-1's and Bills of Export.

b) Upon receipt of the Commissioner (Appeals) Order, the Respondent communicated the same to the Deputy Commissioner of CGST & Service Tax, Satna vide their Letter dated 06.08.2018 for sanctioning the Rebate Claim as directed by Commissioner (Appeals), Bhopal.

c) The Order-in-Appeal dated 29.06.2018 setting aside Order-in-Original dated 30.06.2016 had not been challenged by the Department and hence the same had attained Finality. Even then, the Department issued Show Cause Notice dated 16.04.2019 for non-submission of Bank Realisation Certificate (BRC) which was not mentioned in the direction given by the Commissioner (Appeals). The department subsequently issued Order-in-Original dated 30.06.2020 rejecting the Refund Claim. Aggrieved by the said Order, the respondent went in appeal and Commissioner Appeal vide order dated 27.05.21 set aside the OIO dated 30.06.20 and directed to sanction the rebate claim.

d) The Respondent submitted that the Rebate Sanctioning Authority had an option to challenge the Order-in- Appeal dated 29.06.2018 before the next Appellate Authority. As the same is not done by the Department the Order-in-Appeal dated 29.06.2018 has attained finality and the subsequent SCN issued and Order passed in the matter are bad ab initio.

e) The Respondent has relied on the following decision wherein it was held that when the Commissioner Appeals/CESTAT's earlier Orders allowing the refund claim was not challenged by department, the same attains finality and hence it is not open to the department to start fresh proceedings:

i) CESTAT, West Zone, Mumbai 's decision in case of Commissioner of Central Excise, Pune-II V/s Finolex Industries Ltd reported in 2015 (317) E.L.T. 156 (Tri-Mumbai) ;

ii) CESTAT, West Zone, Mumbai's decision in case of Century Enka Ltd V/s CCE, Pune reported in 2017 (358) E.L.T. 1002 (Tri-Mumbai);

iii) CESTAT, Chennai in the case of Lekh Raj Narinder Kumar V/s Commissioner of Central Excise & S.T., Panchkula reported in 2021 (54) GSTL (32) (Tri-Chennai) ;

iv) CESTAT, West Zone, Ahmedabad in case of M/s B.S. Processors V/s CCE, Ahmedabad reported in 2011 (270) E.L.T. 289;

v) SC's decision in case of Collector of Central Excise, Kanpur V/s Flock (India) Pvt. Ltd. 2000(120)ELT285(SC);

vi) Allahabad High Court in case of Jubilant Life Sciences Ltd. V/s UOI reported in 2016(341)ELT44(All);

vii) GOI's Order in case of Salasar Techno Engineering Pvt Ltd reported in 2018(364)ELT.1143 (GOI);

viii) Madras High Court Order in case of CCE, Coimbatore Vs EL.P.EM. Industries reported in 2017(356)ELT.565(Mad);

ix) CESTAT Mumbai in the case of CCE V/s Astamed Healthcare (1) Pvt Ltd reported in 2018 (10) GSTL 368 (Tri-Mumbai);

x) Punjab & Haryana High Court in the case of Commissioner of Service Tax V/s Rites Limited reported in 2017 (350) E.L.T. 83 (P&H)

f) The Respondent submitted that, Assistant Commissioner has traversed beyond the direction issued by the Commissioner (Appeals) vide OIA dated 29.06.2018 and it is to be noted that requirement of submission

of BRC is neither the ground for denial of Rebate Claim in the previous OIO dated 30.06.2016 nor in the direction given by Commissioner (Appeals) in the impugned OIA dated 29.06.2018.

g) In spite of the above grounds, the Respondent had submitted the 'Bank Realisation Certificate (BRC) for the amount of Rebate Claimed by the Respondent vide Letter dated 31.05.2019. However, Department had further, asked for Refund Claim sanctioned in the last 5 years and the BRC submitted for the same which is not warranted and not the pre-requisite for sanctioning the refund claim. The unwarranted demand of documents are depriving the Respondent for their vested claim of Rebate of Excise Duty paid on the exported goods.

h) In view of the above submission, they pleaded that RA filed by the Revenue be dismissed.

8. Government has carefully gone through the relevant case records available, the written and oral submissions and also perused the impugned Orders-in-Original and Orders-in-Appeal.

9. Government finds that the issue involved is whether the impugned Order-in-Appeal dated 27.05.2021, which held that the applicant had erred in rejecting the rebate claims filed by the respondent on grounds which were not specified by the Commissioner (Appeals) in the Order-in-Appeal dated 29.06.2018 which had remanded the same case for being verified on limited grounds in the earlier round of litigation, is proper or otherwise.

10. Government notes that the respondent on filing the said seven rebate claims on the first occasion, were issued Show Cause Notice dated 18.03.2016 which sought to reject them on the following grounds:-

" (a) In terms of notification No.19/2004-CE (NT) dated 06.09.2004 (as amended), there has been no direct export from

factory/warehouse inasmuch as duty paid goods on clearances from factory of ACC Limited, Kymore were first stored in the depot of ACC Limited, Faizabad and thereafter were exported to Nepal vide various Bill of Exports. The Board's Circular No.29/10/94-CX dated 30.10.1997 providing the waiver of certain conditions have not been followed.

(b) There is no identification no. mentioned in the column 4 of the ARE-1 and in the excise invoice vis-à-vis bill of export to co-relate that the same goods as manufactured and cleared from ACC Limited, Kymore to ACC Limited, Faizabad were exported as the document submitted don't bear any serial number, batch number, by which their identity could be verified for confirming export of same goods."

The claims on being rejected by the original Adjudicating Authority vide Order-in-Original dated 30.06.2016, the issue was agitated by the respondent before the Commissioner (Appeals) resulting in the Order-in-Appeal dated 29.06.2018. The Commissioner (Appeals) vide the said Order had directed the rebate sanctioning authority to sanction the said claims after verification of the Central Excise Invoices with the ARE-1s and the Bills of Export. It is not in dispute that the said Order-in-Appeal dated 29.06.2018 was accepted by the Department. Government finds that, at this juncture, the jurisdictional Joint Commissioner, in total disregard of the directions contained in the Order-in-Appeal dated 29.06.2018, issued a fresh Show Cause Notice dated 16.04.2019 seeking to reject the claims filed by the respondent on the grounds of non-production of BRCs. Government finds that the Order-in-Original dated 30.06.2020, which decided this Show Cause Notice, has also failed to take cognizance of the directions given by the Commissioner (Appeals) in the Order-in-Appeal dated 29.06.2018 and proceeded to reject the claims solely on the grounds raised by the fresh Show Cause Notice dated 16.04.2019. Government observes that it is not the case that the said Show Cause Notice dated 16.04.2019 was issued after the directions of the Commissioner (Appeals) in the Order-in-Appeal dated 29.06.2018 were complied with. Government notes that the applicant always had the option of raising the issue of non-submission of BRCs after complying with the directions given by the Order-in-Appeal dated 29.06.2018. Government finds that by not implementing the directions of

an Order-in-Appeal which was accepted by the Department and instead issuing a fresh Show Cause Notice on the same issue, has resulted in the Order-in-Appeal dated 29.06.2018 being rendered otiose, which cannot be held legal.

11. Government finds that the Commissioner (Appeals) in the impugned Order-in-Appeal has discussed the case at length and provided very lucid and valid reasons before arriving at a decision. The relevant portion of the same is reproduced below:-

" Now, I come to the Order-in-Appeal dated 29.06.2018 passed by the Commissioner (Appeals). In this regard, I find that the undisputed facts of the case are that -

- (a) Vide Order-in-Appeal dated 29.06.2018, the rebate sanctioning authority was directed to sanction the rebate of duty after verification of Central Excise Invoices with ARE-1's and Bills of Export.*
- (b) Said Order-in-Appeal has not been appealed against by the Department.*
- (c) The Appellant had filed Central Excise Invoices, ARE-1's and Bills of Export vide their letter dated 06.08.2018.*
- (d) The issue of BRC was raised at the stage of pre-audit.*
- (e) Said issue was raised in the 2nd Show Cause Notice dated 16.04.2019 and that this ground was not there in the 1st Show Cause Notice dated 18.03.2016.*

8. From the above factual matrix, it is clear that the matter was referred to the adjudicating authority/rebate sanctioning authority only for verification of Central Excise Invoices with ARE-1's and Bills of Export. However, Show Cause Notice was issued on an entirely new ground (i.e. BRC). By doing so, the adjudicating authority has traversed beyond the direction issued by Commissioner (Appeals) in the Order-in-Appeal dated 29.06.18. Such an action on the part of the adjudicating authority was not permissible, more so, as the Order-in-Appeal dated 29.06.2018 had attained finality.

9. It is also clear, from the above-mentioned factual matrix, that the documents submitted by the Appellant in terms of the Order-in-Appeal dated 29.06.2018 has neither been disputed nor found to be bear any discrepancy. Hence, in the 2nd Show Cause Notice dated

16.04.2019, the only ground raised for rejection of rebate claim was with regard to BRC.

10. In view of the discussion in the preceding paras, I hold that the Appellant is eligible for rebate. Therefore, the impugned order dated 30.06.2020 is set aside and the adjudicating authority is directed to sanction the rebate claim to the Appellant."

A plain reading of the above indicates that the Commissioner (Appeals) found that the earlier Order-in-Appeal dated 29.06.2018, which ordered for the rebate to be sanctioned after limited verification, was accepted by the Department. The finding of the Commissioner (Appeals), that the original adjudicating authority traversed beyond the directions contained in the Order-in-Appeal dated 29.06.2018 by rejecting the rebate claims solely on fresh grounds raised in the Show Cause Notice dated 16.04.2019, is legal and proper.

12. Government finds that one of the grounds raised by the applicant in the Revision Application is that by the time the rebate claims were taken up for verification the second time, a period of more than year had lapsed since the exports had taken place and hence the issue of BRCs was required to be raised and that the Commissioner (Appeals) had failed to take cognizance of this fact in the impugned Order-in-Appeal dated 27.05.2021. In this context Government finds that it is pertinent to examine the chronology of events in the present case. The same as indicated by the Order-in-Appeal dated 29.06.2018 is detailed below:-

- The exports had taken place during the period from September 2013 to March 2014;
- Order-in-Original dated 30.06.2016 rejected the rebate claims filed by the respondent;

- Order-in-Appeal dated 29.06.2018, in response to the appeal filed by the respondent, allowed the rebate claims subject to limited verification;

On examining the time line of the decisions above, Government finds that it is clear that the time period of one year from the date of export was over even before the first Order-in-Original dated 30.06.2016 and Order-in-Appeal dated 29.06.2018 was issued. Government notes that the applicant had not raised the issue of non-receipt of BRCs at this stage of the litigation. Thus, Government finds that the attempt by the applicant, to portray a picture that the time limit of one year was over when the matter was before the Commissioner (Appeals) who passed the impugned Order-in-Appeal dated 27.05.2021, is an incorrect and obtuse representation of facts of the case and, therefore, Government rejects the submissions on this count.

13. Government notes that another submission made by the applicant is that the rebate claims presented by the respondent subsequent to the Order-in-Appeal dated 29.06.2018 should be treated as a fresh set of claims. Government finds that this contention defies logic, as the rebate claims in question are in respect of same consignments for which the respondent had submitted rebate claims earlier; and the respondent re-submitting the same along with the documents as required by the Order-in-Appeal dated 29.06.2018, will not by any stretch of imagination qualify as submission of fresh claims. Thus, Government finds that the submission of the applicant on this count also will not hold good.

14. Government finds that the Order-in-Appeal dated 29.06.2018 was accepted by the Department and has hence attained finality. The applicant now does not have any recourse but to follow the directions given therein. Government refrains from delving into merits of the issue of BRCs raised by the Show Cause Notice dated 16.04.2019, as the said Show Cause Notice itself is bad in law and the issue raised by it cannot be deliberated as part of

this *lis*. As such, the case law cited by the applicant in this context will be of no consequence in these proceedings. On the contrary the Judgements relied by the respondents at para 7 above, clearly holds that when the earlier Appellate Order sanctioning refund has not been challenged by review/filing appeal, the department cannot restart fresh proceedings.

15. Government finds that the Commissioner (Appeals) has correctly observed that original rebate sanctioning authority has not found/recorded any discrepancy in the documents submitted by the respondent in terms of the Order-in-Appeal dated 29.06.2018 and that there was no dispute on this count. In light of the same, Government does not find any infirmity in the impugned Order-in-Appeal which directed the applicant to sanction the subject rebate claims of the respondent. Government hence finds no reason to interfere with the impugned order of the Commissioner (Appeals).

16. The Revision Application is disposed in the above terms.


(SHRAWAN KUMAR)

Principal Commissioner & Ex-Officio
Additional Secretary to Government of India

ORDER No. ⁴¹⁷ /2022-CX (WZ) /ASRA/Mumbai dated 10.05.2022

To,
Assistant Commissioner,
CGST & Central Excise, Division Satna,
C.R. Building, Civil Line,
Satna - 485001. (M.P.)

Copy to:

1. M/s ACC Limited, (Unit: Kymore, Cement Works), P.O. Kymore, Katni, M.P. - 483880.
2. Commissioner of CGST & Central Excise, GST Bhavan, Napier Town, Jabalpur - 482001.
3. Commissioner (Appeals), GST & Central Excise, Bhopal (M.P.)
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard file
6. Notice Board