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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 19.08.2026***
Judgment pronounced on: 14.09.2026
Judgment uploaded on: 14.09.2026

\# **CNR No. DLHC010552522025**

\+ W.P.(C) 11957/2025, CM APPL. 48790/2025 and CM APPL. 44034/2026

WELSPRING UNIVERSAL .....Petitioner
Through: Mr. Kunal Sharma and Ms. Rishika Goyal, Advs.

versus

ADDITIONAL COMMISSIONER OF CENTRAL GST .....Respondent
Through: Mr. Brijesh Yadav, SPC with Ms. Nikita, Mr. Sandeep Yadav, Mr. Sawan Saini, Mr. Anirudh Nagar, Mr. Atul Yadav & Mr. Kunal Chaudhary, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE SHAIL JAIN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The issue which arises for consideration in the present Petition is whether the demand confirmed against the Petitioner pursuant to the Demand-cum-Show Cause Notice dated 10.12.2019 can be sustained,

particularly when the grounds forming the basis of the said notice were also the subject matter of the Department's appeal against the Refund Order dated 06.05.2019, and the Commissioner (Appeals)'s order dated 16.12.2019, allowing the said appeal, was subsequently set aside by the Customs, Excise and Service Tax Appellate Tribunal ['CESTAT'] *vide* Final Order No.56215/2024 dated 01.08.2024, whereby the Petitioner's entitlement to refund of Rs.76,72,000/- under Rule 5 of the CENVAT Credit Rules, 2004 was upheld.

2. Through the present Petition, the Petitioner seeks the following reliefs:

> *a. Allow the present petition and issue a writ of certiorari or any other appropriate writ as this Hon'ble Court may deem fit to quash the Show Cause Notice dated 10.12.2019 issued by the Joint Commissioner, Central Goods and Service Tax, West, Delhi.*
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> *b. Allow the present petition and issue a writ of certiorari or any other appropriate writ as this Hon'ble Court may deem fit to quash the Order-in-Original dated 24.03.2025 having no. DL/GST/West/Adjn./ADC/138/Welspring/2019 whereby the learned Adjudicating officer has confirmed the demand raised.*
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> *c. Pass a direction for the payment of interest on pre-deposit amounting to Rs. 7,67,200/- made by the Petitioner in Excise Appeal No. 51000 of 2020 filed before the Hon'ble CESTAT; and*
>
> *d. Pass such other orders as this Hon'ble court may deem fit and proper in the facts and circumstances of the present case.*

FACTUAL MATRIX

3. In order to appreciate the controversy involved in the present Petition, the relevant facts, in brief, are required to be noticed.

4. The Petitioner is a partnership firm engaged in the manufacture of engineering products, with specialisation in the welding sector. It

was registered with the Central Excise Department as a 100% Export Oriented Unit and was also registered as a private bonded warehouse under Sections 58 and 65 of the Customs Act, 1962.

5. During the period from 2006 to 2009, the Petitioner purchased goods from its sister concern, namely, M/s Wellspring India Pvt. Ltd., Bahadurgarh, Haryana, which was also a 100% Export Oriented Unit. The Petitioner paid duty on the goods so purchased and, on the basis of the duty actually paid, availed CENVAT credit aggregating to Rs.35,05,894/-.

6. Subsequently, Show Cause Notice No. CE-20/R-25/WU/48/08/637 dated 26.09.2008 and Show Cause Notice No. CE-20/R-25/WU/48/08/2141 dated 06.01.2009 were issued to the Petitioner alleging that the CENVAT credit of Rs.33,70,340/- and Rs.1,35,554/-, respectively, had been wrongly availed in respect of the goods purchased from its sister concern. The said proceedings were adjudicated *vide* Order-in-Original Nos. 5 & 6/09-10 dated 31.07.2009, whereby the aforesaid credit was disallowed.

7. Aggrieved by the order dated 31.07.2009, the Petitioner preferred appeals before the Commissioner (Appeals). The appeals were allowed *vide* Order-in-Appeal No.141/CE/D-II/2010 dated 30.03.2010. The Department thereafter challenged the said order before the CESTAT.

8. The Department's appeal was dismissed by the CESTAT *vide* Final Order No. A/53564/2016-SM[BR] dated 19.09.2016. The CESTAT noted, *inter alia*, that the Petitioner had claimed credit of the

duty actually paid by it and not of any duty which was merely payable. The CESTAT further observed that the officer who had issued the Show Cause Notices did not have jurisdiction to reopen the assessment of the sister concern and that the Petitioner was entitled to avail the credit of the duty actually paid.

9. The Department challenged the aforesaid order of the CESTAT before this Court. The appeal filed by the Department was dismissed by this Court vide order dated 13.12.2017 passed in CEAC No.8/2017. This Court found no reason to interfere with the order passed by the CESTAT, particularly in view of the admitted position that the Petitioner had actually paid excise duty totalling Rs.35,05,894/-.

10. This Court further examined the applicability of Section 5A(1A) of the Central Excise Act, 1944 and observed that the exemption relied upon by the Department was not absolute but was subject to conditions and prescribed procedures. Consequently, Section 5A(1A) was held to be inapplicable in the facts of the case. The aforesaid order dated 13.12.2017 was accepted by the Competent Authority (Reviewing) on 15.06.2018 and thus attained finality.

11. The second limb of the controversy relates to the excise duty paid by the Petitioner on goods exported by it. Between April 2007 and December 2007, the Petitioner exported goods out of India through 36 consignments after paying excise duty amounting to Rs.76,72,000/-.

12. The Petitioner initially filed rebate claims in respect of the exported consignments under Rule 18 of the Central Excise Rules, 2002. Four rebate claims aggregating to Rs.7,88,553/- were sanctioned by the jurisdictional officer. Subsequently, the jurisdictional officer informed the Petitioner that the rebate claims had been wrongly sanctioned on the ground that the Petitioner, being a 100% Export Oriented Unit, was not required to pay duty on the exported goods. The Petitioner was advised to deposit the amount already sanctioned and was informed that the amount would thereafter be available to it by way of refund.

13. Acting upon the aforesaid advice, the Petitioner deposited Rs.7,88,553/- and thereafter also deposited interest of Rs.1,964/-. The Petitioner subsequently withdrew the pending rebate claims and informed the Department that it would seek refund under Rule 5 of the CENVAT Credit Rules, 2004. The Petitioner thereafter sought permission from the Assistant Commissioner, Central Excise and Customs, to take credit of the duty amounting to Rs.76,72,000/- paid in respect of the 36 export consignments. The request was rejected *vide* communication dated 17.04.2008 on the ground that the Petitioner had wrongly paid duty on the goods exported and therefore could not take credit thereof.

14. The Petitioner sought issuance of a speaking order in respect of the aforesaid decision. However, *vide* communication dated 21.05.2008, the Assistant Commissioner informed the Petitioner that there was no requirement for issuance of a speaking or appealable order. On 26.05.2008, the Petitioner submitted proof of export in

respect of all the consignments, took credit of the duty and intimated the Department. The Assistant Commissioner subsequently reiterated, vide communication dated 05.07.2008, that such credit was not admissible. The Petitioner responded *vide* letter dated 24.07.2008, setting out its reasons for taking the credit.

15. A Show Cause Notice dated 03.02.2009 was thereafter issued to the Petitioner proposing, inter alia, disallowance and recovery of CENVAT credit of Rs.76,72,000/- already taken by the Petitioner under Rule 14 of the CENVAT Credit Rules, 2004 read with the applicable provisions of the Central Excise Act, 1944. The Show Cause Notice also proposed recovery in relation to the rebate amount of Rs.7,88,553/- and imposition of penalty.

16. The aforesaid Show Cause Notice dated 03.02.2009 was adjudicated by the Commissioner, Central Excise, Delhi-II, vide Order-in-Original No.19/2009-10 dated 26.02.2010. The rebate claim of Rs.7,88,553/- was held to be inadmissible and the CENVAT credit of Rs.76,72,000/- was disallowed. A penalty of Rs.1,53,000/- was also imposed upon the Petitioner.

17. The Petitioner challenged the aforesaid order before the CESTAT. The appeal was allowed by way of remand *vide* Final Order No.5066/2017 dated 07.02.2017. The CESTAT noticed that the earlier Order-in-Original dated 26.02.2010 had proceeded without taking into account the legal position arising from the earlier proceedings concerning the admissibility of the CENVAT credit. It was observed that the matter required a holistic consideration, including the

correctness of the credit initially taken by the Petitioner on various inputs and the benefit accruing to the Petitioner in terms of Rule 5 of the CENVAT Credit Rules, 2004.

18. Pursuant to the aforesaid remand, the Commissioner, Central Excise, Delhi-II, adjudicated the Show Cause Notice dated 03.02.2009 vide Order-in-Original No.37/SS/CE/D-II/2-16-17 dated 21.03.2017. By the said order, the proceedings initiated against the Petitioner were dropped. The Commissioner, *inter alia*, recorded that the admissibility of the credit initially taken by the Petitioner was not in dispute and that the circumstances in which the credit had been taken were required to be considered in their entirety. The Commissioner further observed that, once the Department had taken the position that the Petitioner had erroneously paid duty on the exported goods, the appropriate course was to refund the duty so paid.

19. The aforesaid Order-in-Original dated 21.03.2017 was accepted by the Competent Authority (Reviewing) on 13.06.2017 and was not challenged thereafter.

20. Pursuant to the aforesaid proceedings, the Petitioner filed a refund claim for Rs.76,72,000/-. The refund was sanctioned by the Assistant Commissioner, CGST, Janakpuri vide Refund Order No.R-02/19-20 dated 06.05.2019. The Assistant Commissioner, while sanctioning the refund, took note of the inter-connected nature of the earlier proceedings and held that the refund claim was within limitation. It was also found that the Petitioner had furnished the relevant documents evidencing export of the goods.

21. The Commissioner, CGST, West, however, reviewed the refund order and, *vide* Review Order No.19 dated 09.08.2019, directed filing of an appeal against the refund order. The grounds taken in review included, inter alia, the alleged limitation of the refund claim, the alleged requirement of transition of credit through TRAN-1 and the Department's interpretation of the Order-in-Original dated 21.03.2017.

22. In pursuance of the aforesaid review, the Department filed an appeal against the Refund Order dated 06.05.2019 before the Commissioner (Appeals). During the pendency of the said appeal, the Joint Commissioner, Central Tax, GST, Delhi (West), issued the Demand-cum-Show Cause Notice dated 10.12.2019. The said Show Cause Notice proceeded on the premise that the refund of Rs.76,72,000/- sanctioned *vide* Refund Order dated 06.05.2019 was erroneous and called upon the Petitioner to show cause as to why the amount should not be demanded and recovered, along with applicable interest.

23. The Department’s appeal against the Refund Order dated 06.05.2019 was allowed by the Commissioner (Appeals) *vide* Order-in-Appeal dated 16.12.2019. The Commissioner (Appeals) took the view, *inter alia*, that the Petitioner ought to have transitioned the credit through TRAN-1 and that the refund in cash could not be sustained.

24. Aggrieved by the Order-in-Appeal dated 16.12.2019, the Petitioner preferred Excise Appeal No.51000 of 2020 before the CESTAT. The said appeal was allowed by the CESTAT vide Final

Order No.56215/2024 dated 01.08.2024, whereby the Order-in-Appeal dated 16.12.2019 was set aside. The CESTAT examined the scheme governing export of goods and the statutory mechanisms by which the duty paid in respect of exported goods could be neutralised, including the provisions relating to rebate under Rule 18 of the Central Excise Rules, 2002, export under bond under Rule 19 thereof and refund of CENVAT credit under Rule 5 of the CENVAT Credit Rules, 2004.

25. In the facts of the present case, the CESTAT recorded that the Petitioner had initially exported the goods under a claim for rebate, had paid the duty and had thereafter claimed rebate. Although the rebate had initially been sanctioned, the Petitioner, acting upon the advice of the Department, had repaid the rebate amount along with interest. Thereafter, the Petitioner had continued to pay duty on the exported goods by debiting its CENVAT account and had taken credit of the duty so paid.

26. The CESTAT ultimately held, in paragraph 22 of its Final Order dated 01.08.2024, that the Petitioner was entitled to refund of CENVAT credit of Rs.76,72,000/- under Rule 5 of the CENVAT Credit Rules, 2004. The CESTAT further held that the substantive benefit available to the Petitioner could not be denied merely because the Petitioner had quoted the wrong rule while filing the refund claim and the Assistant Commissioner had also sanctioned the refund by referring to the wrong rule.

27. Significantly, the question of limitation was also expressly considered by the CESTAT. In paragraph 23 of its Final Order dated

01.08.2024, the CESTAT held that the refund claim was not hit by limitation. The CESTAT took note of the fact that it was the Revenue which had pursued the matter and carried the earlier proceedings to this Court and that the Petitioner had waited for the judgment of this Court dated 13.12.2017 before filing the refund claim on 08.01.2018.

28. Thus, *vide* Final Order No.56215/2024 dated 01.08.2024, the CESTAT set aside the Order-in-Appeal dated 16.12.2019, which had interfered with the Refund Order dated 06.05.2019. The CESTAT also expressly upheld the Petitioner's entitlement to refund of Rs.76,72,000/- under Rule 5 of the CENVAT Credit Rules, 2004 and held that the claim was not barred by limitation.

29. The Petitioner brought the aforesaid decision of the CESTAT to the notice of the Department vide communication dated 24.02.2025 and enclosed a copy of the Final Order dated 01.08.2024. Despite the same, the proceedings arising out of the Demand-cum-Show Cause Notice dated 10.12.2019 were continued and further hearings were held.

30. Ultimately, the Additional Commissioner, CGST, Delhi (West), passed the impugned Order-in-Original dated 24.03.2025 bearing No.DL/GST/West/Adjn./ADC/138/Welspring/2019, confirming the demand of Rs.76,72,000/- against the Petitioner.

31. The reasoning in the Impugned Order, insofar as relevant for the present controversy, proceeds, inter alia, on the following grounds:

i. that the refund claims filed by the Petitioner under Rule 5 of the

CENVAT Credit Rules, 2004 had earlier been rejected and the said rejection had not been challenged;

ii. that the subsequent applications for refund were new applications and were consequently barred by limitation; and

iii. that the Refund Order dated 06.05.2019 had already been set aside by the Commissioner (Appeals) *vide* order dated 16.12.2019.

32. It is the Petitioner's grievance that the aforesaid findings have been recorded without taking into consideration the subsequent Final Order dated 01.08.2024 passed by the CESTAT, whereby the Order-in-Appeal dated 16.12.2019 had itself been set aside and the Petitioner's entitlement to refund had been upheld.

CONTENTIONS OF THE PARTIES

33. Contentions on behalf of the Petitioner

33.1. It was submitted that the Final Order dated 01.08.2024 passed by the CESTAT was directly material to the adjudication of the Demand-cum-Show Cause Notice dated 10.12.2019. It was submitted that the Department's appeal against the Refund Order dated 06.05.2019 had resulted in the Order-in-Appeal dated 16.12.2019, which was thereafter challenged by the Petitioner before the CESTAT. The CESTAT, *vide* Final Order dated 01.08.2024, allowed the Petitioner's appeal, set aside the Order-in-Appeal dated 16.12.2019 and expressly held that the Petitioner was entitled to refund of Rs.76,72,000/- under Rule 5 of the CENVAT Credit Rules, 2004. The

CESTAT also held that the refund claim was not barred by limitation.

33.2. It was further submitted that once the Order-in-Appeal dated 16.12.2019 had been set aside, the Additional Commissioner could not have relied upon the same order while passing the impugned Order-in-Original dated 24.03.2025. It was submitted that the impugned order effectively proceeds as though the Order-in-Appeal dated 16.12.2019 continues to operate, notwithstanding that the same had already been set aside by the appellate tribunal.

33.3. It was next submitted that the finding that an earlier refund application had been rejected and that the Petitioner had not challenged such rejection is factually and legally unsustainable in view of the subsequent appellate proceedings. The Petitioner had throughout been prosecuting its remedies and the CESTAT had finally adjudicated the controversy in its favour.

33.4. It was also submitted that the question of limitation could not have been reopened by the Additional Commissioner as the same issue had already been expressly considered and decided by the CESTAT in paragraph 23 of its Final Order dated 01.08.2024. It was submitted that the impugned order has been passed without considering the CESTAT's Final Order dated 01.08.2024, despite the Petitioner having specifically informed the Department about the same vide letter dated 24.02.2025. The impugned order, therefore, suffers from a fundamental error inasmuch as it proceeds on a legal position which had ceased to exist before the order itself was passed.

33.5. It was lastly submitted that the Petitioner had deposited an amount of Rs.7,67,200/- as statutory pre-deposit while filing Excise Appeal No.51000 of 2020 before the CESTAT. Since the appeal was ultimately allowed, the Petitioner is entitled to refund of the said pre-deposit along with applicable interest.

34. Contentions on behalf of the Respondent

34.1. *Per contra*, it was submitted that the present Petition is misconceived and not maintainable, as the Petitioner has invoked the extraordinary writ jurisdiction of this Court to challenge the statutory Show Cause Notice dated 10.12.2019 and the consequential Order-in-Original dated 24.03.2025, despite an adequate and efficacious statutory remedy being available against the impugned order. It was submitted that the present Petition also involves disputed questions of fact and law which ought to be examined within the statutory appellate framework.

34.2. It was submitted that the pendency of the Department's appeal against the Refund Order dated 06.05.2019 did not constitute any statutory bar to the issuance of the Show Cause Notice dated 10.12.2019. According to the Respondent, the proceedings arising from the refund order and those initiated pursuant to the impugned Show Cause Notice were distinct statutory proceedings. It was submitted that the Show Cause Notice was independently issued upon the Department forming a prima facie view that the refund had been erroneously sanctioned, inter alia, to safeguard the interest of revenue and prevent the matter from being defeated by limitation.

34.3. It was further submitted that the Refund Order dated 06.05.2019 was an independent and self-contained statutory determination concerning the eligibility, admissibility and quantification of the refund and was consequently open to appellate scrutiny in accordance with law. It was contended that the Petitioner could not claim that the said order was merely consequential to the earlier proceedings and, therefore, incapable of being independently examined or challenged. The mere acceptance by the Reviewing Authority of an earlier order, according to the Respondent, could not operate as an estoppel against the Department from assailing a subsequent refund sanction order if the latter was found to be erroneous or prejudicial to the interests of revenue.

34.4. It was further submitted that the Final Order dated 01.08.2024 passed by the CESTAT did not render the Demand-cum-Show Cause Notice dated 10.12.2019 non est, nor did it, according to the Respondent, preclude adjudication of the proceedings initiated pursuant to the said notice. It was submitted that the proceedings arising from the Show Cause Notice were separate statutory proceedings and were required to be adjudicated in accordance with law.

34.5. It was also submitted that the Petitioner's claim for refund of Rs.76,72,000/- was barred by limitation. It was contended that the earlier refund claims filed by the Petitioner under Rule 5 of the CENVAT Credit Rules, 2004, pertaining to the same period had already been rejected and the Petitioner had failed to challenge such rejection. The subsequent claim filed on 08.01.2018 was, therefore, according to the Respondent, a fresh claim filed beyond the prescribed period under Section 11B of the Central Excise Act, 1944, the relevant date for limitation being the date of export. It was further contended that the orders passed in the earlier adjudication proceedings did not extend or revive the statutory period of limitation.

34.6. It was lastly submitted that the Petitioner had already availed credit of Rs.76,72,000/- in respect of the subject export transactions and could not seek a second benefit by way of cash refund for the same transactions. It was further submitted that the impugned Order-in-Original dated 24.03.2025 had been passed after affording the Petitioner sufficient and repeated opportunities of hearing. The Respondent specifically relied upon the personal hearing attended by the Petitioner through its counsel on 05.10.2023 and the subsequent opportunities afforded on 22.11.2024, 25.02.2025 and 06.03.2025. It was, therefore, contended that there was neither any violation of the principles of natural justice nor any prejudice caused to the Petitioner warranting interference by this Court.

ANALYSIS & FINDINGS

35. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record.

36. The controversy, in the view of this Court, does not require this Court to once again examine the merits of the Petitioner's entitlement to refund of Rs.76,72,000/-. The said issue had already been considered by the CESTAT in Final Order No.56215/2024 dated 01.08.2024. The said order has not been shown to have been set aside or stayed in any subsequent proceedings

37. The sequence of events assumes significance. The refund of Rs.76,72,000/- was sanctioned by the Refund Order dated 06.05.2019. The Department challenged the said order before the Commissioner (Appeals), and during the pendency of that appeal, the Demand-cum-Show Cause Notice dated 10.12.2019 came to be issued. The Commissioner (Appeals) thereafter allowed the Department's appeal *vide* Order-in-Appeal dated 16.12.2019. The Petitioner challenged the said Order-in-Appeal before the CESTAT, which ultimately allowed the Petitioner's appeal *vide* Final Order dated 01.08.2024 and set aside the Order-in-Appeal dated 16.12.2019.

38. The effect of the Final Order dated 01.08.2024 cannot be lost sight of. The Order-in-Appeal dated 16.12.2019, which had set aside the Refund Order dated 06.05.2019, was itself subsequently set aside by the CESTAT. Consequently, the Additional Commissioner could not proceed on the premise that the Order-in-Appeal dated 16.12.2019 continued to operate as a valid determination against the Petitioner, without considering the subsequent appellate adjudication by the CESTAT.

39. In this regard, the reasoning adopted in paragraph 23 of the impugned Order-in-Original cannot be sustained. The Additional Commissioner proceeded, inter alia, on the premise that the Refund Order dated 06.05.2019 had been set aside by the Commissioner (Appeals) *vide* Order-in-Appeal dated 16.12.2019. However, the impugned order was passed on 24.03.2025, by which date the said Order-in-Appeal dated 16.12.2019 had already been set aside by the CESTAT vide Final Order dated 01.08.2024.

40. Once the Order-in-Appeal dated 16.12.2019 had been set aside by the CESTAT, the same could not thereafter be treated as an operative determination adverse to the Petitioner. The adjudicating authority was, therefore, required to consider the effect of the Final Order dated 01.08.2024 while adjudicating the proceedings pending before it.

41. The position becomes even clearer when the findings recorded by the CESTAT are examined. In paragraph 22 of its Final Order dated 01.08.2024, the CESTAT expressly held that the Petitioner was entitled to refund of CENVAT credit of Rs.76,72,000/- under Rule 5 of the CENVAT Credit Rules, 2004. The CESTAT further held that the substantive benefit available to the Petitioner could not be denied merely because the Petitioner had quoted the wrong rule while filing the refund claim.

42. Thus, the CESTAT did not merely set aside the Order-in-Appeal on a technical ground. It examined the substantive entitlement of the Petitioner and concluded that the Petitioner was entitled to refund of the CENVAT credit of Rs.76,72,000/- under Rule 5 of the CENVAT Credit Rules, 2004.

43. Equally significant is the finding recorded by the CESTAT on limitation. The Department had specifically raised the issue of limitation before the CESTAT. The CESTAT considered the same in paragraph 23 of its Final Order and held that the refund claim was not hit by limitation.

44. Once the question of limitation had been specifically considered and decided by the CESTAT in favour of the Petitioner, the Additional Commissioner could not have proceeded to adjudicate the issue by simply treating the refund claim as a fresh claim and arriving at a conclusion contrary to the finding recorded by the CESTAT in its Final Order dated 01.08.2024.

45. The impugned order, insofar as it holds that the refund claim was a fresh application and was barred by limitation, therefore, cannot be sustained. The finding is directly contrary to the adjudication already undertaken by the CESTAT in its Final Order dated 01.08.2024. The same infirmity permeates the finding of the Additional Commissioner that the Petitioner had previously filed a refund claim which had been rejected and that, since the said rejection had not been challenged, the subsequent claim was not maintainable.

46. The aforesaid finding fails to take into account the subsequent appellate proceedings concerning the refund. The Refund Order dated 06.05.2019 was challenged by the Department before the Commissioner (Appeals), and the Order-in-Appeal dated 16.12.2019 passed in those proceedings was thereafter challenged by the Petitioner before the CESTAT. The CESTAT allowed the appeal on 01.08.2024 and set aside the Order-in-Appeal dated 16.12.2019.

47. Therefore, the Additional Commissioner could not have treated the proceedings as though the Order-in-Appeal dated 16.12.2019 continued to operate independently of the subsequent appellate adjudication. Once the said Order-in-Appeal was set aside by the

CESTAT, the Additional Commissioner was required to consider the legal and factual consequences flowing from the Final Order dated 01.08.2024, including the CESTAT's finding that the Petitioner was entitled to refund of Rs.76,72,000/- under Rule 5 of the CENVAT Credit Rules, 2004 and that the claim was not barred by limitation.

48. It is also material that the Petitioner had specifically brought the Final Order dated 01.08.2024 to the notice of the adjudicating authority vide its communication dated 24.02.2025. Thus, the CESTAT's decision was not an order of which the adjudicating authority could legitimately claim ignorance.

49. Despite being apprised of the CESTAT's decision, the Additional Commissioner proceeded to pass the impugned Order-in-Original dated 24.03.2025 without dealing with the effect of the Final Order dated 01.08.2024.

50. An adjudicating authority exercising statutory powers is necessarily required to take into account the operative orders of the appellate authorities having appellate jurisdiction over the adjudicating authority. The adjudicating authority cannot disregard a subsequent appellate determination which directly bears upon the very issue under adjudication.

51. The present case is not one where the adjudicating authority was required to consider an issue wholly unrelated to the proceedings before the CESTAT. The findings recorded in the impugned order concerning limitation and the Petitioner's entitlement to refund have to be considered in the context of the Final Order dated 01.08.2024.

The CESTAT had expressly considered the question of limitation and had also upheld the Petitioner's substantive entitlement to refund under Rule 5 of the CENVAT Credit Rules, 2004. Further, the Order-in-Appeal dated 16.12.2019, upon which reliance has been placed in the impugned order, had already been set aside by the CESTAT.

52. The impugned Order-in-Original, therefore, proceeds on a legal and factual premise which was no longer available to the Respondent on 24.03.2025.

53. This Court is also unable to sustain the finding that the Petitioner's claim stood defeated merely on the ground that an earlier refund claim had been rejected and that such rejection had not been challenged. The subsequent proceedings culminating in the Final Order dated 01.08.2024 demonstrate that the entitlement to refund was the subject matter of adjudication before the statutory appellate forum. The CESTAT, while deciding Excise Appeal No.51000 of 2020, examined the Petitioner's entitlement to refund and ultimately allowed the appeal.

54. Once the CESTAT had set aside the Order-in-Appeal dated 16.12.2019 and had held that the Petitioner was entitled to refund of Rs.76,72,000/- under Rule 5 of the CENVAT Credit Rules, 2004, the Additional Commissioner could not treat the said Order-in-Appeal as continuing to operate against the Petitioner while adjudicating the Demand-cum-Show Cause Notice.

55. It is also relevant to notice that the earlier proceedings arising out of the Show Cause Notice dated 03.02.2009 had culminated in the

Order-in-Original dated 21.03.2017 dropping the proceedings. The said order was accepted by the Competent Authority (Reviewing). The subsequent refund proceedings thus arose in the backdrop of the findings recorded in the earlier proceedings and, thereafter, the appellate adjudication rendered by the CESTAT vide Final Order dated 01.08.2024.

56. The present proceedings cannot be viewed in isolation by merely referring to the Refund Order dated 06.05.2019 and the Order-in-Appeal dated 16.12.2019. The latter order was not the last word on the controversy. It was carried in appeal and was ultimately set aside.

57. This Court therefore finds that the Additional Commissioner committed a manifest error in confirming the demand of Rs.76,72,000/- *vide* the impugned Order-in-Original dated 24.03.2025.

58. In view of the aforesaid conclusion, it is not necessary for this Court to examine the other grounds urged by the Petitioner. The impugned order is unsustainable for the fundamental reason that it fails to give effect to the subsequent Final Order dated 01.08.2024 passed by the CESTAT and proceeds on the basis of an Order-in-Appeal dated 16.12.2019 which had already been set aside.

59. The Demand-cum-Show Cause Notice dated 10.12.2019 was issued while the Department's appeal against the Refund Order dated 06.05.2019 was pending before the Commissioner (Appeals). The subsequent Order-in-Appeal dated 16.12.2019 passed in that appeal was thereafter set aside by the CESTAT vide Final Order dated 01.08.2024. In these circumstances, the adjudication of the Demand-

cum-Show Cause Notice could not have proceeded on the basis that the Order-in-Appeal dated 16.12.2019 continued to operate against the Petitioner, particularly when the CESTAT had expressly upheld the Petitioner's entitlement to refund and had held that the claim was not barred by limitation.

60. Accordingly, the Order-in-Original dated 24.03.2025 bearing No.DL/GST/West/Adjn./ADC/138/Welspring/2019 and the Demand-cum-Show Cause Notice dated 10.12.2019 are set aside.

61. The Petitioner had made a pre-deposit of Rs.7,67,200/- while preferring Excise Appeal No.51000 of 2020 before the CESTAT. Since the said appeal was allowed by the CESTAT *vide* Final Order dated 01.08.2024, the Petitioner is entitled to refund of the said pre-deposit, together with applicable interest, in accordance with law.

CONCLUSION

62. For the foregoing reasons, the present Writ Petition is allowed.

63. The Order-in-Original dated 24.03.2025 bearing No.DL/GST/West/Adjn./ADC/138/Welspring/2019 and the Demand-cum-Show Cause Notice dated 10.12.2019 are hereby set aside.

64. The Respondent is directed to refund to the Petitioner the amount of Rs.7,67,200/- deposited by the Petitioner as pre-deposit while filing Excise Appeal No.51000 of 2020 before the CESTAT, together with applicable interest, in accordance with law.

65. The pending applications also stand disposed of.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 14, 2026
sp/pal