

Commissioner of Central Excise Vs. Indorama Textiles Ltd.

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Court : Mumbai

Decided On : May-03-2006

Reported in : 2006(4)BomCR664; 2006(200)ELT3(Bom)

Judge : D.D. Sinha and; R.C. Chavan, JJ.

Acts : [Companies Act, 1956](#); [Central Excise Tariff Act, 1985](#) - Sections 11B and 35EE; [Central Excise Act, 1944](#) - Sections 37; Central Excise Rules, 2002 - Rules 18, 19, 19(1) and 19(2); Central Excise (No. 2) Rules, 2001; Central Excise Rules, 1944 - Rule 12, 12(1) and 13; Central Excise Rules, 2001

Appeal No. : Writ Petition No. 683 of 2006 in Appeal No.

Appellant : Commissioner of Central Excise

Respondent : indorama Textiles Ltd.

Advocate for Def. : M.G. Bhangde, Sr. Counsel

Advocate for Pet/Ap. : A.B. Chaudhari, ASG

Judgement :

D.D. Sinha, J.

1. Rule returnable forthwith. Heard finally by consent of Shri Chaudhari, learned Assistant Solicitor General for the petitioners, and Shri Bhangde, learned Senior

Counsel for the respondent no. 1.

2. The facts and circumstances, which have given rise to filing of the petition are as under :

The respondent no. 1 M/s. Indorama Textiles Limited is a Company registered under the [Companies Act, 1956](#) and holding Central Excise Registration No. AAAC 1530 LXM001 for manufacture of spun yarn falling under Chapter 55 of the Schedule to the [Central Excise Tariff Act, 1985](#). The respondent no. 2 is a Joint Secretary to the Government of India, Ministry of Finance, Department of Revenue, vested with the powers to act as a revisional authority under Section 35EE of the [Central Excise Act, 1944](#) (for short, 'the Act').

3. The respondent no. 1 filed 45 rebate claims amounting to Rs. 1,46,90,995/- (Rs. 75,42,487/- + Rs. 71,48,508/-) in the month of November/December 2004 in respect of export of polyester/cotton yarn cleared against ARE-2 on payment of Central Excise, duty. The amount of rebate claimed includes Central Excise duty paid on the finished goods exported and also on raw materials used in the manufacture of exported goods. In other words, the rebate claim of the assessee comprised of the duty paid on the raw materials as well as duty paid on the finished products. The assessee exported these goods on payment of Central Excise duty in the Cenvat Account for which the said rebate claims were filed under the provisions of Rule 18 of the Central Excise Rules, 2002 (for short, '2002 Rules').

4. A show cause notice dated 11-1-2005 was issued to the respondent no. 1 whereby the assessee was called upon to show cause to the Deputy Commissioner of Central Excise, Division-11, Nagpur as to why the rebate claimed by the assessee should not be rejected as the same was contrary to the provisions of Rule 18 of the 2002 Rules read with Section 11-B of the Act and the notification issued thereunder bearing No. 19/2004-C.E. (N.T.), dated 6-9-2004. The Deputy Commissioner, Central Excise Division-11, Nagpur rejected the rebate of duty paid on the final product exported as well as the claim of rebate of duty paid on inputs contained therein vide order dated 28-1-2005. the respondent no. 1 being aggrieved by the said order, filed an appeal with the commissioner of Central

Excise (Appeals), Nagpur, who vide order dated 15-3-2005 held that the respondent assessee is entitled to one of the claims for rebate of duty paid either on exported goods or on inputs used in the exported goods and therefore, remanded the case to the lower authority to decide the claim of the case to the lower authority to decide the claim of respondent no. 1 for rebate of duty after granting personal hearing to the respondent no. 1. The respondent no. 1 being aggrieved by the decision of the Commissioner of Central Excise (Appeals) filed revision application before the Joint Secretary to the Government of India in view of provisions of Section 35EE of the Act, who, vide impugned order dated 22-8-2005 accepted the claim of the respondent no. 1 for rebate of duty paid on exported goods as well as inputs used in the exported goods and allowed the revision. Being aggrieved by the said order, the petitioners have filed the present petition.

5. Shri Chaudhari, learned Assistant Solicitor General for the petitioners, contended that in exercise of power conferred by Section 37 of the Act and in suppression of the Central Excise Rules, 1944, the Central Government made Central Excise (No. 2) Rules, 2001. It was contended that the said Rules, which came into force with effect from 1-7-2001, continued to hold the field until new Rules, namely, Central Excise Rules, 2002 came into force with effect from 1-3-2002. The said 2001 Rules lost their relevance and, therefore, entitlement of the respondent no. 1 for rebate of duty was required to be considered in view of Rule 18 of the 2002 Rules, which reads thus :

Rule 18. Rebate of duty. - Where any goods are exported, the Central Government may, by notification, grant rebate of duty paid on such excisable goods or duty paid on materials used in the manufacture or processing of such goods and the rebate shall be subject to such conditions or limitations, if any, and fulfilment of such procedure, as may be specified in the notification.

Explanation. - 'Export' includes goods shipped as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.

It was contended that the revisional Authority is wholly wrong in relying upon Rule 12 of the old Rules of 1944 and old Notification Nos. 40/2001 and 41/2001 in order

to hold that the respondent no. 1 is entitled for rebate of duty paid on both the items. It was further contended that the revisional Authority completely ignored the provisions of Rule 18 of 2002 Rules as well as Notification Nos. 19/2004 and 21/2004 issued under Rule 18 of the 2002 Rules.

6. The learned Assistant Solicitor General for the petitioners contended that the word 'or' occurring in Rule 18 of the 2002 Rules is conjunctive. The dictionary meaning of the word as per Concise Oxford Dictionary is : '1. introducing the second of two alternatives (white or black), 2. introducing the only remaining possibility of choice given.' This means that the usage of the word 'or' in Rule 18 indicates that an assessee has a choice to make between the two alternatives. The wordings of Rule 18, therefore, cannot be construed to mean that the assessee has an option of both the things simultaneously in one single case.

7. Learned Assistant Solicitor General Shri Chaudhari submitted that the rebate can be claimed by the assessee either on the duty paid on final products, which are exported or on duty paid on inputs used in the manufacture of final products, which are exported, is clear from the fact that there are two separate notifications issued under Rule 18 of the 2002 Rules prescribing separate procedure to be followed for claiming rebate. Those are Notification No. 19/2004-Central Excise (N.T.), which prescribes the procedure to be followed for claiming rebate of the duty paid on export of goods and Notification No. 21/2004-Central Excise (N.T.), which prescribes procedure to be followed for claiming rebate of duty on the excisable material used in the goods exported. It was, therefore, contended that there are two separate procedures prescribed for claiming rebate under each of these situations, which demonstrates that simultaneous claiming of rebate on both the duty paid on the final product and also on the goods used for manufacture of the goods exported is not contemplated in Rule 18 of the 2002 Rules and, therefore, respondent no. 1 is not entitled to claim rebate simultaneously on both these items.

8. It was further submitted by the learned Assistant Solicitor General for the petitioners that the contention of the assessee that the export of goods is permitted under ARE-2 procedure and that the ARE-2 proforma is a combined

proforma for claiming both input stage rebate as well as rebate on the final goods and, therefore, assessee is entitled to claim rebate on both is not correct. The proforma like ARE-2 is not an authority on which entitlement of the respondent no. 1 for grant of rebate can be decided. The claim of the respondent no. 1 for grant of rebate can only be decided on the basis of provisions of Rule 18 of the 2002 Rules and notifications issued thereunder. The wording of Rule 18 of the 2002 Rules clearly indicates that the rebate is available to an assessee in respect of either duty paid on goods exported or in respect of inputs used in the manufacture or processing of finished goods, which are exported. It was further contended that the revisional Authority by ignoring procedure and scheme stipulated under Rule 18 of the 2002 Rules as well as notifications issued thereunder wrongly considered and relied on earlier rules and notifications, which are no longer relevant and, therefore, findings recorded by the revisional Authority in the impugned order cannot be sustained in law.

9. Shri Bhangde, learned Senior Counsel for the respondent no. 1, submitted that while considering provisions of Rule 18 of the 2002 Rules, the observations made in the impugned order by the revisional Authority are relevant, which read thus :

Government notes that as a principle and a policy measure, Government has accepted that export of goods from India should be relieved of domestic levies (both Customs and Central Excise) in order to promote export of domestic products from India and to make them internationally competitive.

It was contended that the above statements made in the impugned order are not disputed by the petitioners and, therefore, the undisputed position is that object of the Rule in question is to relieve the export of goods from India from Central Excise duty with a view to promote export of domestic goods in order to make them globally competitive.

10. Learned Senior Counsel for the respondent no. 1 contended that the Central Government has issued Notification No. 19/2004 and 21/2004, both dated 6-9-2004, under Rule 18 of the 2002 Rules providing for rebate of Central Excise duty paid on exported goods and materials used for manufacturing the exported goods respectively. There is no clause in these notifications laying down that availment of

rebate under any one of them will bar availment of rebate under the other. Thus, it is clear that the Central Government has provided for simultaneous availment of rebate of duty on both, i.e. exported goods and inputs required in manufacture thereof. It was further contended that under old Rule 12 rebate of duty on export goods and inputs required for manufacturing thereof was permissible simultaneously. The Central Government has issued Circular No. 354/66/2001-TRU, dated 21-6-2001 laying down that '3. There is no basic change in the rules now notified.' It is, therefore, clear that under Rule 18 of the 2002 Rules also rebate has to be allowed on both, i.e. exported goods and the inputs required for manufacturing thereof.

11. Learned Senior Counsel Shri Bhangde vehemently argued that the word 'or' is normally disjunctive and the word 'and' is normally conjunctive, but at times they are read vis-a-vis to give effect to the manifest intention of the Legislature as disclosed from the context. If the literal reading of the word produces an unintelligible or absurd result, in such situation, word 'and' may be read as 'or' and the word 'or' may be read as 'and'. In order to substantiate his contentions, reliance is placed by the learned Senior Counsel on the judgment of the Apex Court in *Prof. Yashpal and Anr. v. State of Chhattisgarh and Ors.* : AIR 2005 SC2026].

12. It was further contended by learned Senior Counsel Shri Bhangde that in the instant case, though Rule 18 of the 2002 Rules uses the word 'or', the same is required to be read as 'and', otherwise inequitable result would follow, such as Rule 19(1) of the 2002 Rules provides for export of goods without payment of duty and Rule 19(2) provides for procurement of inputs in the manufacture of exported goods without payment of duty. Thus, both the exported goods as well as inputs are free from payment of duty. If contention of the petitioners is accepted, then the exporter, who follows Rule 18, will get rebate of duty paid either on the exported goods or on the inputs used in the manufacture of exported goods whereas exporter, who follows Rule 19 is exempted from duty at both stages and, therefore, analogy proposed by the petitioners so far as Rule 18 is concerned, in the context of the above referred facts, would result in discrimination.

13. Similarly, learned Senior Counsel Shri Bhangde contended that exporter may follow Rule 19(1) and export goods without payment of duty and procure the inputs on payment of duty and claim rebate under Rule 18, which the Department will permit and, therefore, will get benefit of non-payment of duty and/or rebate at both the stages. It was further contended that the exporter, under Rule 19(2) may procure the inputs free from payment of duty and make payment of duty on exported goods and pray for rebate of duty paid on exported goods under Rule 18, which is permissible even as per stand of the Department. Thus, the exporter will get benefit of non-payment of duty on inputs and rebate of duty on the final products.

14. It was further argued by learned Senior Counsel Shri Bhangde that the above referred examples would show that if the Department's stand is accepted, inequitable result would follow, which would result in discrimination. It is a settled law of interpretation that inequitable result should not follow while interpreting the provisions of law. In order to substantiate this contention, reliance is placed by the learned Senior Counsel on the judgment of the Supreme Court in Hindustan Petroleum Corporation Ltd. v. Collector of C. Excise : 1995(77)ELT256(SC) . It was, therefore, contended that Rules 18 and 19 of the 2002 Rules are required to be read as complementary to each other so as to provide equitable results. This can be achieved only by permitting rebate of duty on the exported goods as well as on inputs used in the manufacture thereof.

15. We have given anxious thought to the various contentions canvassed by the respective Counsel for the parties and perused the relevant provisions of the Central Excise Act and Rules as well as the impugned order. The following facts are not in dispute:

(a) Rule 12(1) of the Central Excise Rules, 1944 dealt with rebate of duty paid on the materials used in manufacture of goods exported as well as rebate of duty paid on goods exported. Rule 12(1) permitted grant of rebate of-

(a) duty paid on the excisable goods,

(b) duty paid on materials used in the manufacture of goods.

Under the aforesaid Rule, the assessee was entitled to get rebate of duty paid on excisable goods as well as materials used in manufacturing of goods.

(b) The Central Government in exercise of power conferred on it under Section 37 of the [Central Excise Act, 1944](#) and in supersession of the Central Excise Rules, 1944, except in respect of things done or omitted to be done before such supersession, made Central Excise Rules, 2001, which came into force on 1st July 2001. Rule 18 of the said Rules dealt with rebate of duty paid on goods.

(c) The Central Government in exercise of powers conferred by Section 37 of the [Central Excise Act, 1944](#) and in supersession of the Central Excise (No. 2) Rules, 2001 made Central Excise Rules, 2002. Rule 18 thereof reads thus :

Rule 18. Rebate of duty. - Where any goods are exported, the Central Government may, by notification, grant rebate of duty paid on such excisable goods or duty paid on materials used in the manufacture or processing of such goods and the rebate shall be subject to such conditions or limitations, if any, and fulfillment of such procedure, as may be specified in the notification.

Explanation. - 'Export' includes goods shipped as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.

(d) The Central Government in exercise of power conferred by Rule 18 of the Central Excise Rules, 2002 and in supersession of the Ministry of Finance, Department of Revenue, Notification No. 40/2001-Central Excise (N.T.), dated 26th June 2001 (G.S.R. 469 (E) dated 26th June 2001) issued Notification No. 19/2004-Central Excise (NT.), dated 6-9-2004, directing grant of rebate of whole of the duty paid on all excisable goods falling under the First Schedule to the [Central Excise Tariff Act, 1985](#) (5 of 1986) exported to any country other than Nepal and Bhutan subject to conditions and limitations as well as procedure specified in the said notification. Similarly, in exercise of power conferred by Rule 18 of the Central Excise Rules, 2002, the Central Government issued Notification No. 21/2004-Central Excise (N.T.), dated 6-9-2004 in supersession of Ministry of Finance, Department of Revenue, Notification No.. 41/2001-C.entral Excise (NT.) dated 26-6-2001 whereby the Central Government has directed that rebate of whole of the

duty paid on the materials used in the manufacture or processing of such excisable goods, which are exported, be paid subject to conditions and procedure specified under the said notification.

16. In the backdrop of the above referred facts, it is evident that Rule 12 of the Central Excise Rules, 1944 has been superseded by the Central Excise Rules, 2001. Similarly, Central Excise Rules, 2001 were superseded by the 2002 Rules. It is, therefore, implicitly clear that the provisions of the Central Excise Rules, 1944 and Central Excise Rules, 2001 lost their legal force after coming into effect the 2002 Rules and, therefore, they are wholly irrelevant for deciding entitlement of the assessee for grant of rebate of duty after 1-3-2002, i.e. the date on which 2002 Rules came into force.

17. In the instant case, the respondent no. 1 had filed 45 rebate claims in the year 2004 and, therefore, issue as to whether respondent no. 1 is entitled to get rebate of duty paid on the exported goods and rebate of duty paid on inputs used in the exported goods simultaneously is necessarily required to be decided wholly on the basis of Rule 18 of the 2002 Rules.

18. As per settled principles of statutory interpretation, if language of the statute or rule is clear, free from ambiguity and capable of conveying the purpose for which such rule is evolved and objective to be achieved, the Courts are required to interpret rule on the basis of language used in such rule. It is no doubt true that in principle, the Government has accepted that goods, which are exported from India, should be relieved of domestic levies in order to promote export of domestic products from India and to make them internationally competitive and, therefore, intention of the Legislature was to grant some concession on duty paid on excisable goods or inputs and in order to achieve this objective, Rule 18 was evolved whereby rebate of duty paid either on excisable goods, which are exported, or on inputs is provided. The intention of the Legislature was not to grant rebate of duty paid on exported goods as well as on inputs used in such goods simultaneously, which is evident from the language used in Rule 18 of the 2002 Rules. If the intention of the Legislature was to grant rebate of duty paid on excisable goods as well as on material used in the manufacture or processing of

such goods, in that event, there was no propriety to ask the assessee first to pay excise duty on these goods when the Department has to refund the same in the form of rebate to the assessee. On the other hand, keeping in view the object to promote export of domestic products, the Legislature wanted to give some concession by way of rebate of duty paid on the excisable goods or on material used in manufacture or processing of such goods and not on both simultaneously. The language used in Rule 18 of the 2002 Rules is loud, clear, completely unambiguous and also capable of conveying the purpose for which Rule is evolved. After taking into consideration these vital aspects of the Rule, we are of the considered view that the rebate provided in Rule 18 of the 2002 Rules is only on duty paid on one of the items, i.e. either on excisable goods or on material used in manufacture or processing of such goods and, therefore, assessee is not entitled to claim rebate on both the items simultaneously.

19. In order to consider the purport of Rule 18 of the 2002 Rules, Notification Nos. 19/2004 and 21/2004, dated 6-9-2004 issued by the Central Government are relevant. These two notifications are issued in exercise of power conferred by Rule 18 of the 2002 Rules for grant of rebate of duty on the excisable goods exported as well as grant of rebate of duty paid on the materials used in the manufacture or processing of such excisable goods respectively. These two notifications pertain to grant of rebate of duty paid on two different items. It is, therefore, evident that these two separate and distinct notifications issued by the Central Government are consistent with the scheme of Rule 18 of the 2002 Rules to grant rebate of duty only on one item. However, the option is with the assessee. In other words, if the assessee is entitled to get rebate of duty paid on both the items, there was no necessity for the Central Government to issue two separate notifications requiring assessee to claim rebate separately on the duty paid on excisable goods and on inputs.

20. The contention canvassed by the learned Senior Counsel for the respondent no. 1 that the word 'or' may be read as 'and' is misconceived since it is wholly inconsistent with the intention of the Legislature as well as object of Rule 18 of the 2002 Rules. Even at the cost of repetition, we want to express that if the word 'or' is read as 'and' in Rule 18 of the 2002 Rules, then in that event, we will be doing

violence with the language of the Rule and would be defeating the object to be achieved and purpose for which Rule is evolved. Such construction of Rule, in our view, is impermissible in law. On the other hand, in view of the language used, scheme of the Rule and intention of the Legislature, assessee is granted rebate of duty paid either on excisable goods or material used in the manufacture or processing of such goods and, therefore, word 'or' used in Rule 18 cannot be read as 'and'. The Apex Court in para (59) of its judgment in the case of Prof. Yashpal and Anr. (cited supra) has observed thus :

We are of the opinion that having regard to the constitutional scheme and in order to ensure that the enactment made by Parliament, namely, the University Grants Commission Act is able to achieve the objective for which it has been made and UGC is able to perform its duties and responsibilities and further that the State enactment does not come in conflict with the Central legislation and create any hindrance or obstacle in the working of the latter, it is necessary to read the expression 'established or incorporated' as 'established and incorporated' insofar as the private universities are concerned.

Perusal of the above referred observations made by the Apex Court makes it evident that while considering the issue as to whether word 'or' used in the statute can be read as 'and', the language, object and purpose for which such statute is evolved are required to be considered and it is only on such consideration, appropriate interpretation consistent with the object of such statute is required to be given, which should further the cause and the interpretation which defeats the very object of the statute should be avoided since such interpretation would defeat the very intention of the Legislature. The observations of the Apex Court, in our view, are of no help to the respondent No. 1.

21. Another contention canvassed by Shri Bhangde, learned Senior Counsel for the respondent no. 1, that Rules 18 and 19 of the 2002 Rules are required to be read as complementary to each other so as to provide equitable result is also misconceived. The area of operation and the situation in which these Rules operate are totally different and distinct and, therefore, cannot be equated with each other. So far as Rule 18 is concerned, it deals with entitlement of assessee

for grant of rebate of duty already paid on excisable goods or material used in the manufacture or processing of such goods. It is, therefore, evident that Rule 18 is attracted only after payment of excise duty on excisable goods or on material used in the manufacture or processing of such goods for the purpose of getting rebate of duty subject to such conditions and limitations, if any and after fulfilment of such procedure as may be prescribed in the notification. The scheme and procedure prescribed under Rule 19 is altogether different than the one prescribed under Rule 18 and contemplates export of such excisable goods as well as material used in manufacture or processing of such goods without payment of duty subject to conditions, safeguards and procedure specified by the notification issued by the Board and, therefore, it cannot be equated with Rule 18. Rule 18 is attracted after payment of duty whereas Rule 19 provides for exemption from duty at the threshold and, therefore, by very nature of contingencies mentioned in these two Rules, the benefits provided to the assessee are in two different situations and at two different stages and, therefore, contention canvassed by the learned Senior Counsel for the respondent no. 1 in this regard cannot be accepted.

22. Perusal of the impugned order passed by the revisional Authority shows that the revisional Authority while considering purport of Rule 18 considered Notification No. 40/2001-C.E. (N.T.), dated 26-6-2001, Notification No. 41/2001-C.E. (N.T.), dated 26-6-2001 and Circular No. 129/40/95-CS, dated 29-5-1995 issued by the Department of Revenue as well as Rules 12 and 13 of the Central Excise Rules, 1944. It is difficult for us to reconcile as to how the Notification of 2001 and Rules 12 and 13 of the Central Excise Rules, 1944 are relevant for the purpose of considering entitlement of the assessee for grant of rebate of duty paid on goods after Central Excise Rules, 2002 came into Force, which are framed by the Central Government in supersession of the Central Excise Rules, 2001. Similarly, Notification Nos. 19/2004 and 21/2004, dated 6-9-2004 are specifically issued in supersession of Notification No. 40/2001-C.E. (NT.), dated 26-6-2001 as well as Notification No. 41/2001-C.E. (N.T.), dated 26-6-2001 respectively. Thus, Notifications of 2001 and procedure mentioned therein are wholly irrelevant and cannot be relied on for considering the entitlement for grant of rebate claimed by the respondent no. 1. We have no hesitation to hold that after 2002 Rules came into force, the entitlement of respondent no. 1 for grant of rebate on duty paid can

only be considered as per the procedure prescribed under Rule 18 of the 2002 Rules as well as Notification Nos. 19/2004 and 21/2004, dated 6-9-2004 issued by the Central Government under Rule 18 of the 2002 Rules.

23. The entire approach and the procedure adopted by the revisional Authority, in our view, is wholly misconceived and completely inconsistent with the provisions of Rule 18 of the 2002 Rules. Similarly, reliance placed by the revisional Authority on the notifications and Rules, which are superseded and have lost force of law, for deciding entitlement of respondent no. 1 for grant of rebate, in our view, is impermissible in law and, therefore, findings recorded by the revisional Authority are wholly misconceived and completely devoid of substance.

24. Similarly, reliance placed by the revisional Authority on Rule 19 in order to consider the purport of Rule 18 of the 2002 Rules is also misconceived. We have already observed that Rule 19 operates in a situation, which is totally different and distinct than the situation in which Rule 18 is attracted and, therefore, Rule 19 cannot be equated with Rule 18 in that sense of the term.

25. It is no doubt true that Form ARE-2 is a combined application form prescribed for export of goods under claim for rebate of duty paid on excisable materials used in the manufacture of exported goods and claim of rebate of duty paid on excisable goods. However, that does not mean that both the benefits can be claimed simultaneously. Similarly, forms ARE-I and ARE-II are common for notifications issued under Rules 18 and 19 of the 2002 Rules to be used as per requirement of exporter with option to strike out the portion not applicable. It does not mean that the benefit of both the notifications can be claimed simultaneously. In the instant case, as per provisions of Rule 18 of the 2002 Rules, the respondent no. 1 is entitled to exercise option for grant of rebate of duty paid either on excisable goods or on the material used in the manufacture or processing such goods.

26. The approach of the revisional Authority that introduction of new Rules was only for the purpose of simplification and they have to be read in the context of old Rules is perverse. Similarly, change of text does not affect eligibility to avail the rebate of duty on excisable goods as well as on inputs simultaneously and

substitution of old Rules by the present new Central Excise Rules, 2002 is only an exercise of simplification of the Central Excise Rules is also misconceived approach of the revisional Authority. The revisional Authority, in our view, has completely ignored the fact that the Central Excise Rules, 2002 are issued by the Central Government in exercise of power conferred by Section 37 of the [Central Excise Act, 1944](#), in supersession of the Central Excise Rules, 2001. Similarly, notifications dated 6-9-2004 are issued by the Central Government under Rule 18 of the 2002 Rules in supersession of earlier notifications dated 26-6-2001 issued by the Central Government. It is well settled that when earlier Rules or notifications are superseded by another Rules or notifications, the earlier Rules and notifications lose force of law and, therefore, are wholly irrelevant for the purpose of considering entitlement for rebate of duty paid on goods by the assessee and such entitlement necessarily will have to be considered on the basis of Rules and notifications, which are in force at the time of making claim by the assessee. In the instant case, when the claims were made by the respondent no. 1, the Central Excise Rules, 2002 were in force and notifications of 2004 issued under Rule 18 were holding the field and, therefore, entitlement for grant of rebate claimed by the assessee can only be considered on the basis of new Rules. In the instant case, the findings recorded by the appellate Authority, i.e. Commissioner of Central Excise (Appeals) in the appellate order dated 15-3-2005, in our view, are just and proper and sustainable in law and, therefore, same are hereby confirmed.

27. For the reasons stated herein above, the impugned order dated 22-8-2005 passed by the revisional Authority is quashed and set aside. The matter is remanded back to the competent Authority to decide the claim of the respondent no. 1 for rebate of duty paid either on the exported goods or rebate of duty paid on materials used in the manufacture or processing of such goods, after granting personal hearing to the respondent no. 1.

28. The rule is made absolute in the above terms. No order as to costs.