

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 523 of 2018

- M/s Triputi Steel Traders (Prop. M/s Mahamaya Mines Pvt. Ltd.) A Company Constituted And Incorporated Under India Companies Act, 1956, Registered Office At Ravi House, 5/7, Nehri Nagar East, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Appellant

Versus

- The Assistant Commissioner Of Central Excise Division-I, Nagpur, District : Nagpur, Maharashtra
- The Assistant Commissionere Of Central Excise And Customs (Appeals) Civil Lines, Telengkedi Road, Nagpur, District : Nagpur, Maharashtra
- The Joint Secretary Govt. Of India, Ministry Of Finance, North Block, New Delhi., District : New Delhi, Delhi

---- Respondents

For Appellant	: Shri Anumeh Shrivastava, Advocate
For Respondents	: Shri Vinay Pandey, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Rajani Dubey

Order on Board by Manindra Mohan Shrivastava,J.

25/07/2018

This appeal is directed against the order dated 10.04.2018 passed by the learned Single Judge in W.P.T. No. 2994/2011 by which the petitioner's petition has been dismissed.

2. Brief resumption of quintessential facts, necessary for deciding the petition are that the petitioner, a registered merchant exporter and

engaged in export of R. N. Steel products, submitted an application under Rule 18 of the Central Excise Rules, 2002 (hereinafter referred to as 'Rules of 2002') read with notification dated 6.9.04 ('relevant notification' in short) claiming refund/rebate of duty paid on goods exported. The application was rejected by the first respondent which was affirmed by the appellate authority and thereafter, affirmed by the revisional authority also giving rise to this petition. Before the learned Single Judge, writ petitioner sought to assail the order on the ground that the scheme of rebate being a beneficial exemption to promote exports, require liberal interpretation and mere non submission of some of the required documents, in the present case, ARE-1 (application) for removal of cause for export would not *ipso facto* result in rejection of claim. Relying upon the decision of the Supreme Court in the case of **Commissioner of Customs (Preventive) Mumbai Vs. M. Ambalal & Company reported in 2010 (13) SCALE 266**, it was submitted that the requirement of submission of ARE-1 is merely procedural and not substantive legal requirement therefore if some reason, ARE-1 was not submitted, the authority was required to evaluate other collateral documentary evidence while examining the claim of rebate.

3. The stand taken by the counsel for Revenue is that the requirement of production of original copy of ARE-1 is a mandatory requirement to establish that the goods have suffered duty at the time of removal from the factory of manufacture and further that they are actually exported.

4. The argument that non submission of ARE-1 was mere technical breach, did not find favour. Learned single Judge, referring to Rule 18 of Rules, 2002 and the relevant notification as also judgment of

the Supreme Court in **N. Ambalal** (supra) held that the precondition to seek rebate was of mandatory nature and non submission of the same render the claim for rebate is liable to be rejected.

5. Learned counsel appearing for the appellant, relying upon (**Government of India & Others Vs. Indian Tobacco Association** reported in **AIR 2005 SC 3685**; **Formica India Division & Others Vs. Collector of Central Excise & Others** reported in **1995 Supp (3) SCC 552**; **Mangalore Chemicals and Fertilisers Ltd. Vs. Deputy Commissioner of Commercial Taxes and Others** reported in **AIR 1992 SC 152**; **Union of India Vs. Bharat Aluminium Co.** reported in **2011 (263) ELT 48 (Chhattisgarh)**; **Zandu chemicals Limited Vs. Union of India** reported in **2015 (315) ELT 520 (Bom.)** ; **Union of India Vs. Farheen Texturisers** reported in **2015 (323) ELT 104 (Bom.)**; **Tablets India Ltd. Vs. Jt. Secy, GOI [2010(259) ELT 191 (Mad.)]** **Raj Petro Specialties Vs. Union of India & Others** reported in **2017 (345) elt 496 (Guj.)** and **UM Cables Limited Vs. Union of India & Others** reported in **2013 (293)ELT 641 (Bom.)** argued in extensio to convince the Court that the requirement of submission of ARE-1 is merely procedural in -form and not substantive legal requirement and even when such document ARE-1 is not produced, the other collateral documentary evidence in proof of the fact that the goods were duty paid and actually exported are required to be examined by the authority and in appropriate case, where the other extrinsic evidence is found reliable, application for rebate ought to be allowed rather than rejecting his claim on technical breach of non-production of ARE-1.

6. Learned counsel for the Revenue emphasized upon the policy as laid down in the Rules of 2002, in so far as the claim of rebate is

concerned, by submitting that the object of the scheme is not merely procedural but a substantive one aimed at ensuring that there is due and proper certification of the goods having been duty paid on the actual export. According to him, this is also aimed at making enquiry effective and summary and at the same time, based on authentic documents, thereby ensuring efficiency of the administrative process and at the same time, ensuring that fake and forged claim of rebate, based on unverified statements and doubtful documents are not allowed to take its course to pierce into the administrative check against forged claims. He would submit that the ratio laid down by the Supreme Court in the case of M. **Ambalal**, relied upon by the learned single judge holds the field.

7. In the present case, the petitioner, as is evident from the order (Annexure P-4) passed by the Assistant Commissioner, submitted following documents :

“ (3) Self attested Xerox copy of Invoices No. TST/2007-2008/001 and TST/2007-2008/002 both dated 02.01.2008. TST/2007-2008/003, TST/2007-2008/004, TST/2007-2008/005 dated 03.01.2008, TST/2007-2008/006, TST/2007-2008/007, TST/2007-2008/008 dated 15.01.2008, TST/2007-2008/008 dated 16.01.2008, TST/2007-2008/009 dated 21.01.2008 and TST/2007-2008/010 dated 07.03.08.

(4) Self attested Xerox copy of Shipping Bill No. 000091 dated 03.01.2008, 000145 dated 05.01.2008, 000438 dated 16.01.2008, 000439 dated 16.01.2008, 000615 dated 21.01.2008 , 000481 dated 17.01.2008 and 002105 dated 10.03.2008.

(3) Self attested Xerox copy of Bill of Lading No. SAFM-750505055 dated 04.02.2008 SAFM-524844017 dated 15.02.2008, SAFM-524866198 dated 20.02.2008, SAFM-750505052 dated 04.02.2008 and SAFM – 750549328 dated 25.03.2008.

(4) Bank Realization Certificate.

(5) Disclaimer Certificate.”

All the authorities while scrutinizing the claim of the appellant took the view that on account of non-production of ARE-1 document and other evidence of duty paid export being not reliable, claim is liable to be rejected.

8. In so far as the requirement of submission of ARE-1 document is concerned, it is required to be examined whether the said requirement is substantive as to make it mandatory and non-compliance thereof fatal to the claim for rebate or a directory so that in appropriate case, it may be held to be open for the assessee to claim rebate by producing other collateral documentary evidence of duty paid goods exported by him through various modes of export.

9. The claim of rebate in cases of Export is governed by the provisions contained in Rule 18 of the Central Excise Rules, 2002 which provides for rebate of duty and reads thus:

“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 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.”

The statutory notification issued by the department on 06.09.04 however provides as to in what manner the grant of rebate shall be regulated and lays down the procedure thereof which includes the requirement of submitting various documents. The said notification dated 06.09.04 is reproduced as below:

“In exercise of the powers conferred by Rule 18 of the Central Excise Rules, 2002 and in super session of the Ministry of Finance, Department of Revenue, notification No. 40/2001-CE(NT), dated the 26.6.2001 [GSR 469(E), dated the 26th June, 2001] in so far as it relates to export to the countries other than Nepal and Bhutan, the Central Government hereby directs that there shall be granted rebate of the 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 the conditions, limitations and procedures specified in this notifications.”

As per Notification No.19/2004-CE(NT), dated 6.9.2004 as amended, admissible quantified rebate of CENVAT and Education Cess paid on the goods exported is available to the claimant, subject to fulfillment of the conditions and procedures.

3. As per procedure prescribed in para 8.3 of part-1 of Chapter 8 of said Supplementary Instructions, the following documents are required for filing of Rebate claims.

(i) A request on the letterhead of the exporter containing claim of rebate, ARE-1 Nos. and dates, corresponding Invoice Nos. and dates, amount of rebate on each ARE-1 and its calculation,

(ii) original copy of ARE-1

(iii) invoice issued under Rule 11.

(iv) self Attested copy of Shipping Bill and

(v) self Attested copy of Bill of Lading

(vi) Disclaimer Certification [in case where the claimant is other than exporter].

10. Conjoint reading of Rule 18 and the relevant notification reveals that under the scheme of law, grant of rebate is subject to conditions or limitations, if any, and fulfillment of said procedure as may be specified in the notification. The notification then lays down the conditions as also the procedure. The conditions as stated in the notification is that there shall be granted rebate of the 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 the conditions limitations and procedures specified in the notification. Therefore, the substantive part of the provision relating to entitlement to grant of rebate provides that rebate of all the duty to be paid to certain category of certain excisable goods would be available if they are exported, excluding two countries. The substantive law with regard to entitlement is therefore mandatory and no rebate would be available under the law unless goods are exported. Secondly, rebate would be available only on certain category of excisable goods and not on all. This part of the notification constitutes a mandatory requirement. The notification in clause 3 thereof, lays down the procedure for filing of rebate claims. It includes various documents which are required to be submitted along with rebate claims. We however, find that under Rule 18,2 grant of rebate is subject not only to conditions of rebate but also subject to fulfillment of procedure specified in the notification. It necessarily includes submission of various documents.

11. In the light of the aforesaid scheme of law it is required to be seen whether the requirement of submission of ARE -1 form is mandatory or mere directory.

12. Ordinarily speaking, the provisions of taxing statute are required to be strictly construed. Further where a taxing statute provides for certain exemptions or rebates subject to certain conditions, those preconditions, fulfillment of which entitles a person to rebate or exemption from taxes or duty are also mandatory. However, in appropriate cases, a play may be allowed, in so far as the procedure through which the required conditions are to be fulfilled to claim rebate/exemption.

13. In the present case, on the face of Rule 18, which specifies precondition for grant of rebate, it should also be held to be mandatory.

If the Rule itself requires the fulfillment of precondition for grant of rebate, it would amount to doing violence to the plain language of the statute to hold otherwise that fulfillment of requirements would not be a mandatory precondition.

14. Learned counsel for the appellant has placed reliance on the decision of the supreme court in the case of **Union of India Vs. Suksha International and Nutan Gems and Others** reported in **AIR 1989 SC 690** wherein one of the issues was whether certain limitations should be held to be mandatory or not. What impelled their Lordships in the Supreme Court to hold that the provision was directory is as below :

“Acceptance of the interpretation suggested by Shri Subba Rao would, in our opinion, unduly restrict the scope of the beneficial provision and, in many instances which would otherwise fall within the beneficial scope of the policy in para 185(4), take away with one hand what the policy gives with the other.”

It is thus clear that in that case what was found was that the interpretation suggested unduly restrict the scope of these provision and amounted to take away benefit.

15. The other decision relied upon is in the case of **Formica India Division, Bombay, Burma Trading Corporation Ltd. Vs. Collector of Central Excise and Others & Formica India Vs. Union of India & Others** reported in **1995 Supp (3) SCC 552**. Again on facts it was found that once the Tribunal took the view that the assessee was liable to pay duty on the intermediary product he would be entitled to the

benefit of notification without insisting on technical consequences of Rule 56 A of the Central Excise Rules, 1944.

Strong reliance is placed on the decision in the case of **Mangalore Chemicals & Fertilizers Ltd. Vs. Deputy Commissioner of Commercial Taxes and Others** reported in **AIR 1992 SC 152** as in that judgment the court was considering the provisions relating to admissibility of the benefits of exemption. The question which fell for consideration was as below :

“Appellant, it is not in dispute, had the necessary eligibility under the original exemption notification of 1969. The controversy is confined only to the question of the manner of effectuating the refund of sales tax that appellant, admittedly, was entitled to.”

16. While deciding the issue as to whether the provision was mandatory or directory, their Lordships examined the legal position keeping in view the law laid down in the earlier decision in the case of **Kedarnath Jute Manufacturing Co. Vs. Commercial Tax Officer, Calcutta** reported in **1965 (3) SCR 626** and held thus:

“11. We have given our careful consideration to these submissions. We are afraid the stand of the Revenue suffers from certain basic fallacies, besides being wholly technical. In Kedarnath's case, the question for consideration was whether the requirement of the declaration under the proviso to Section 5(2)(a)(ii) of the Bengal Finance (Sales-tax) Act, 1941, could be established by evidence aliunde. The court said that the intention of the Legislature was to grant exemption only upon the satisfaction of the substantive condition of the provision and the condition in the proviso was held to be of substance embodying considerations of policy. Shri Narasimha Murthy would say the position in the present case was no different. He says that the notification of 11th August 1975 was statutory in character and the condition as to 'prior-permission' for adjustment stipulated therein must also be held to be statutory. Such a condition must,

says counsel, be equated with the requirement of production of the declaration form in Kedarnath's case and thus understood the same consequences should ensure for the on-compliance. Shri Narasimhamurthy says that there was no way out of this situation and no adjustment was permissible, whatever be the other remedies of the appellant. There is a fallacy in the emphasis of this argument. The consequence which Shri Narasimha Murthy suggests should flow from the non-compliance would, indeed, be the result if the condition was a substantive one and one fundamental to the policy underlying the exemption. Its stringency and mandatory nature must be justified by the purpose intended to be served. The mere fact that it is statutory does not matter one way or the other. There are conditions and conditions. Some may be substantive, mandatory and based on considerations of policy and some others may merely belong to the area of procedure. It will be erroneous to attach equal importance to the non-observance of all conditions irrespective of the purposes they were intended to serve. “

In another decision, in the case of **Govt. Of India and Others Vs. Indian Tobacco Association** reported in **AIR 2005 SC 3685** the principles laid down by the Supreme Court in the case of *M/s. Parle Export Pvt. Limited*, were taken into consideration in para 20 of the said decision which we feel it appropriate to reproduce/quote herein below:

In *M/s Parle Exports (supra)*, it was observed:

"17 The notification must be read as a whole in the context of the other relevant provisions. When a notification is issued in accordance with power conferred by the statute, it has statutory force and validity and, therefore, the exemption under the notification is as if it were contained in the Act itself. See in this connection the observations of this Court in [Orient Weaving Mills \(P\) Ltd. v. Union of India](#). See also [Kailash Nath v. State of U.P.](#) The principle is well settled that when two views of a notification are possible, it should be construed in favour of the subject as notification is part of a fiscal enactment. But in this connection, it is well to remember the observations of the Judicial Committee in *Coroline M. Armytage v. Frederick Wilkinson* that it is only, however, in the event of there being a real difficulty in ascertaining the meaning of a particular enactment that the question of strictness or of liberality of

construction arises. The Judicial Committee reiterated in the said decision at p. 369 of the report that in a taxing Act provisions establishing (sic enacting) an exception to the general rule of taxation are to be construed strictly against those who invoke its benefit. While interpreting an exemption clause, liberal interpretation should be imparted to the language thereof, provided no violence is done to the language employed. It must, however, be borne in mind that absurd results of construction should be avoided."

17. Apart from the aforesaid decisions of the Supreme Court, strong reliance has been placed on the decisions of High Court of Mumbai as well as High Court of Gujarat wherein the issue relating to requirement of submission of ARE-1 document directly came up for consideration. In the case of **U.M.Cables Limited Vs. Union of India & Others** reported in **AIR 1989 SC 690 [2013 (293) E.L.T. 641 (Bom.)]**, upon examination of the scheme of the Rule in the light of the principles laid down by the Supreme court in the case of **Mangalore Chemicals & Fertilisers Ltd. Vs. Deputy Commissioner of Commercial Taxes and Others**, it was held as below :

13. A distinction between those regulatory provisions which are of a substantive character and those which are merely procedural or technical has been made in a judgment of the Supreme Court in [Mangalore Chemicals & Fertilizers Ltd. v. Deputy Commissioner](#) 1. The Supreme Court held that the mere fact that a provision is contained in a statutory instruction "does not matter one way or the other". The Supreme Court held that non-compliance of a condition which is substantive and fundamental to the policy underlying the grant of an exemption would result in an invalidation of the claim. On the other hand, other requirements may merely belong to the area of procedure and it would be erroneous to attach equal importance to the non-observance of all conditions irrespective of the purposes which they were intended to serve 2. The Supreme Court held as follows :

"The mere fact that it is statutory does not matter one way or the other. There are conditions and conditions. Some may be substantive, mandatory and based on considerations of policy and some

other may merely belong to the area of procedure. It will be erroneous to attach equal importance to the non-observance of all conditions irrespective of the purposes they were intended to serve."

14. The particulars which are contained in Form ARE-1 relate to the manufacturer of the goods, the number and description of the packages, the 1 1991(55) E.L.T. 437 (S.C.) 2 at paragraph 11.

PNP 9/11 WP3102-24.4 weight, marks and quantity of the goods and the description of the goods. Similarly, details are provided in regard to the value, duty, the number and date of invoice and the amount of rebate claimed. Part A contains a certification by the central excise officer to the effect inter alia that duty has been paid on the goods and that the goods have been examined. Part B contains a certification by the officer of the customs of the shipment of the goods under his supervision.

15. In the situation in the two writ petitions, the rebate claims that were filed by the Petitioner would have to be duly bifurcated. As noted earlier the first writ petition³ relates to two claims dated 20 March 2009 and 8 April 2009 in the total value of Rs.12.54 lacs. In respect of the second of those claims dated 8 April 2009, of a value of Rs.10.08 lacs, the Petitioner has averred that the goods were loaded by the Shipping Line on the vessel and the vessel sailed on 18 April 2008 whereas the Let Export Order was passed by the customs authorities on 19 April 2008. The Petitioner has stated that in view of this position the customs authorities withheld the endorsement of the ARE-1 forms and the issuance of the export promotion copy of the shipping bill⁴. We find merit in the contention of counsel appearing on behalf of the Revenue that in these circumstances, the rejection of the rebate claim dated 8 April 2009 by the adjudicating authority and which was confirmed in appeal and in revision cannot be faulted. Admittedly even accordingly to the Petitioner the goods came to be exported and the vessel had sailed on 18 April 2008 even before a Let Export Order was passed by the customs authorities. The primary requirement of the identity of the goods exported was therefore, in our view, not fulfilled. In such a case, it cannot be said that a fundamental requirement regarding the export of the goods and of the duty paid character of the goods was satisfied. "

18. The aforesaid view has been succinctly taken in various decisions cited before us. The High Court of Gujarat has also taken similar view as has been taken by High Court of Mumbai regarding the

nature of submission of ARE-1 document for availing rebate on duty paid goods exported.

In the case of M. **Ambalal**, the law relating to the principles applicable in the matter of interpretation of exemption provisions were laid down as below :

“10) It is settled law that the notification has to be read as a whole. If any of the conditions laid down in the notification is not fulfilled, the party is not entitled to the benefit of that notification. The rule regarding exemptions is that exemptions should generally be strictly interpreted but beneficial exemptions having their purpose as encouragement or promotion of certain activities should be liberally interpreted. This composite rule is not stated in any particular judgment in so many words. In fact, majority of judgments emphasize that exemptions are to be strictly interpreted while some of them insist that exemptions in fiscal Statutes are to be liberally interpreted giving an apparent impression that they are contradictory to each other. But this is only apparent. A close scrutiny will reveal that there is no real contradiction amongst the Judgments at all. The synthesis of the view is quite clearly that the general rule is strict interpretation while special rule in the case of beneficial and promotional exemption is liberal interpretation. The two go very well with each other because they relate to two different sets of circumstances”

Therefore, general rule is strict interpretative while special rule in the case of beneficial and promotional exemption is liberal interpretation.

19. In the present case, what we find is that while rebates can be allowed only when it is proved by the assessee that he has paid the duty on goods exported and the goods are those specified in the provision itself, it is necessary to fulfill preconditions to avail rebate by furnishing documents which are enumerated in the notification.

20. At this juncture, we must give our anxious consideration to the submissions made by the counsel for the revenue that there is definite purpose behind requirement of submission of ARE-1 document and it takes care of due and proper certification by excise authorities, custom authorities and postmasters with regard to the fact of goods being duty paid and actually exported. We cannot be oblivious to the submissions and the purpose behind submission of ARE-1 document. Ordinarily the assessee in order to claim rebate has to prove his entitlement by submission of the documents which are enumerated in the notification which includes ARE-1 document also.

21. Under instructions contained in Chapter 8 under the heading 'export under claim for rebate' of the central excise law manual 2011-2012 edition (53rd Edition), form Annexure -14 is the prescribed format of ARE-1 document. The first part deals with the application to be submitted by the assessee, containing various details of the goods, duty paid, etc. In the prescribed form of the application, there are three certifications also prescribed, contained in part-A and part-B. The third form contained in part-C relates to export by post whereas part-D prescribe the form of the refund order under the head 'sanction rebate'.

22. It would thus be seen that the purpose and object of requirement of submission of ARE-1 document is that the authority before whom claim of rebate is made, has an authentic certified information relating to duty paid goods and its export in the form of certification of the excise officer as well as custom officer and in case of export by post, by certification of postmaster. This is intended to put in place an effective machinery of disposal of rebate claims. It is with the object of prompt decision of rebate claims and at the same time, to ensure that

fabricated or forged claims are not allowed to percolate to avoid payment of duty. We thus, find that there is considerable force in the submission of learned counsel for the revenue that ordinarily the procedure prescribed for seeking rebate must be followed. We hold that ordinarily the procedure prescribed for seeking rebate must be followed which includes submission of various documents/certificates in prescribed forms including ARE-1 document.

23. It is only in appropriate cases where it is found that for such reasons which are satisfactory in the opinion of the authority due to which the assessee for reasons beyond his control could not submit ARE-1 document that he could be allowed to lead collateral documentary evidence in support of its claim for rebate. However, this procedure would only be an exception to the general rule. If we hold that despite all preconditions in the law, assessee will always have a choice either to submit ARE-1 document or to submit in collateral document for rebate, it would virtually render otiose the entire scheme and would in that process be doing violence to the requirement of law. Not only that, the process of evaluation and enquiry into verification of documentary evidence other than those required under the law may not only make the procedure of verification cumbersome but may also adversely affect efficiency of the working of the whole mechanism of decision on rebate applications.

24. Upon such consideration we are, therefore, inclined to hold that ordinarily, the requirements of fulfillment of preconditions as stated in Rule 18 read with relevant notification, as mandated are required to be fulfilled to avail rebate. However, in exceptional cases it is open for the assessee to prove claim of rebate by leading other collateral

documentary evidence in support of entitlement of rebate. As we have noticed, it would only be an exception to the general rule and not a choice of the assessee to either submit ARE-1 document or to lead collateral documentary evidence. We would further hold that where an assessee seeks to establish claim for rebate without ARE-1 document or for that matter without submission of those documents which are specified in relevant notifications he is required to clearly state as to what was that reason beyond his control due to which he could not obtain ARE-1 document. In cases of the nature as was noticed in the decision of U.M. Cables Limited, the assessee would be required to file at least affidavit of having lost the document required to be submitted to claim rebate. It will then be a matter of enquiry by the authorities as to whether the reason assigned by the assessee are acceptable to allow him to lead collateral documentary evidence in support of its claim of rebate. But we wish to make it clear that under no circumstances, it can be treated as parallel system as it is not established procedure under the law.

25. Having so examined the legal position with regard to the requirement of submission of ARE-1 document, what we find from the order passed by the authority is that, in fact, the authority, while holding that the requirement of submission of ARE-1 document has not been fulfilled has actually taken into consideration the other collateral evidence furnished by the assessee before it as below :

“Further on going through Shipping Bills, it is noticed that Shipping Bills were filled under “DEPB Scheme”. The commercial invoices issued shows the declaration “Export under claim of rebate”. But commercial invoice is not a proper document which can be considered for allowing the rebate being not issued under Rule 11 of Central

Excise Rules, 2002 as stipulated.

The bank realization certificate submitted for realization of sale proceeds does not indicate the correlation of exported goods for which rebate claim has been filed.”

26. It would thus be seen that even if we accept the argument of learned counsel for the appellant that only on the ground of non submission of ARE-1 document the claim for rebate could not be rejected without taking into consideration other documents submitted by the assessee, we find that the authority has taken into consideration the other collateral evidences but it had also held that submission of ARE-1 document was essential requirement. Therefore we find our selves unable to grant any relief to the petitioner in this writ appeal and the same is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge