IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-01-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 15887 of 2022

M/s.Larsen and Toubro Ltd.,
ECC Division, TLT Work, Mylam Road,
Sedarpet, Puducherry-605 111.,
Rep. by its Manager-Indirect Taxes,
Mr. K. Pattabiraman

..Petitioner(s)

Vs

1. The Revisionary Authority and Additional Secretary to the GOI Office of the Principal Commissioner RA and Ex-Officio Additional Secretary to the Government of India, 8th Floor, World Trade Centre, Cuffe Parade, Mumbai-400 005.

2. The Commissioner of GST and Central Excise Puducherry

3. The Assistant Commissioner of GST and Central Excise, Puducherry III Division, Puducherry Commissionerate, Puducherry

..Respondent(s)

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records connected with Order No.323/2021-CX(SZ)/ASRA/Mumbai dated 24.09.2021, passed by the 1st respondent herein, and to quash the same, in so far as it upholds the orders of the lower authorities in rejecting the rebate claim filed by the petitioner herein and consequently direct the respondents herein to sanction the rebate claim or to re-credit the duty paid by the petitioner on the exported goods back into their Electronic credit ledger account maintained in terms of the Central Goods and Service Tax Act, 2017.

For Petitioner(s):	Mr.N.Viswanathan
For Respondent(s):	Mr. A.P.Srinivas, Senior standing counsel

ORDER

The petitioner manufactured and exported galvanized transmission tower and parts of prefabricated steel structure. Goods were exported between October 2007 and December 2007 under 32 ARE-1 applications by paying duty. Such duty was paid by making a debit from the CENVAT credit account of the petitioner. The goods left India between 02.10.2007 and 15.12.2007. The rebate claim was made on 05.02.2009. By order dated 09.04.2009, the rebate claim was rejected. The order dated 09.04.2009 was carried in appeal. The appeal was rejected by order dated 18.03.2011. Thereafter, a revision application was filed and the same was rejected under impugned order dated 24.09.2021.

2. Learned counsel for the petitioner assails the impugned order on multiple grounds. The first ground of challenge is that the petitioner is a manufacturer and, therefore, entitled to export the goods under a bond without payment of duty under Rule 19 of the Central Excise Rules, 2002 (Central Excise Rules). Rules 18 and 19 are complementary and, consequently, notwithstanding the fact that duty was paid under Rule 18, the petitioner is entitled to relief under Rule 19.

3. The second ground is that the revenue is not entitled to collect duty in respect of export of goods and the collection and retention thereof is unlawful. In those circumstances, the limitation period prescribed in Rule 11B of the Central Excise Act, 1944 ('Central Excise Act') is inapplicable.

4. The judgment of the Supreme Court in *Sansera Engineering Ltd., v. Deputy Commissioner LTU Bengaluru in 2022(382) ELT 921 SC (Sansera)* did not take into consideration other relevant judgments, including the judgment in *Mafatlal Industries Ltd., v. Union of India, (1997)5 SCC 536 (Mafatlal)*, wherein the nine Judge Bench of the Hon'ble Supreme Court held that Section 11B is not applicable in relation to the excess duty collected during provisional assessment and revised downward during final assessment. Learned counsel clarifies that this position prevailed until 25.06.1999 when an amendment was effected.

5. By relying on the judgment in *In re: Balakrishna Industries Ltd., 2020(372) ELT 737 (GOI),* learned counsel submits that it was held therein that the amount collected as duty on exported goods does not partake the character of duty as per Rule 2(e) of Central Excise Rules. Hence, he contends that the retention of duty is unlawful and not subject to any period of limitation. In support of the contention that Rules 18 and 19 are complementary, learned counsel relies on the judgment in *Hindustan Petroleum Corporation Ltd. v. Collector of Central Excise, 1995(77) ELT 256 (SC)*.

6. In response to these contentions, learned senior standing counsel invited my attention to the order in original to point out that the relevant admitted facts were noticed therein and that it was consequently concluded that the claim is beyond the period of limitation. He submits further that the Hon'ble Supreme Court examined the question that arises for consideration in this case in *Sansera* and concluded categorically at paragraph 15 thereof that Section 11B is applicable; and that the period of limitation prescribed therein is applicable to the claim for rebate under Rule 18 of the Central Excise Rules. Therefore, he submits that no case is made out for interference.

7. Section 11B of the Central Excise Act, in relevant part, reads as under:

"11B. Claim for refund of [duty and interest, if any,

paid on such duty. *– (1) Any person claiming refund of any duty excise and interest, if any, paid on such duty may make an application for refund of such duty and interest, if any, paid on such duty to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise before the expiry of one year from the relevant date in such form and manner as may be prescribed….”*

8. Sub-Section (1) prescribes the limitation period of one year from the relevant date. Explanation (A) defines “refund” as including rebate of duty of excise of excisable goods exported out of India. Explanation (B) defines “relevant date” as the date on which the goods left India.

9. In the above statutory context, in *Sansera*, the Supreme Court considered the following question:

“It is the case on behalf of the appellant that as in Rule 18 of the 2002 Rules and notification dated 6-9-2004, there is no mention to the applicability of Section 11B of the Act and that the claim for rebate of duty under Rule 18 is different and distinct than that of the claim for refund of duty under Section 11B of the Act, the period of limitation prescribed under Section 11B of the Act shall not be applicable, while considering the claim for rebate of duty under Rule 18 of the 2002 Rules.

The said question was answered as under:

"In view of the above and for the reasons stated above, it is observed and held that while making claim for rebate of duty under Rule 18 of the Central Excise Rules, 2002, the period of limitation prescribed under Section 11B of the Central Excise Act, 1944 shall have to be applied and applicable. In the present case, as the respective claims were beyond the period of limitation of one year from the relevant date, the same are rightly rejected by the appropriate authority and the same are rightly confirmed by the High Court. We see no reason to interfere with the impugned judgment and order passed by the High Court. Under the circumstances, the present appeal fails and deserves to be dismissed and is accordingly dismissed. However, there shall be no order as to costs."

10. In view of the above judgment of the Supreme Court categorically answering the question as to whether the limitation period in Section 11B is applicable to a claim for rebate under Rule 18, learned counsel for the petitioner contends the said judgment did not take into account the judgment of the larger Bench in *Mafatlal Industries*. *Mafatlal Industries* did not deal with the question of the applicability of the limitation period in Section 11B to a claim for rebate under Rule 18 of the Central Excise Rules. The said judgment was rendered in

the context of a provisional assessment being subsequently revised either upward or downward. On the basis of a principle formulated in that context by the Supreme Court, it cannot be concluded that the judgment in *Sansera* answering the specific questions arising for consideration in this case is per incuriam or otherwise not binding.

11. As noticed earlier, the relevant facts are undisputed and the conclusion that flows therefrom is that the claim for rebate of duty has been made after the period of limitation prescribed under Section 11B. In those circumstances, there is no infirmity in the order of the Revisional Authority rejecting the refund application of the petitioner.

12. For reasons aforesaid, this writ petition is dismissed without any order as to costs.

23-01-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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SENTHILKUMAR RAMAMOORTHY, J.

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To

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