

**Company entitled to refund of Cenvat credit lying in Cenvat credit account on closure of business**

In *M/s Nichiplast India Pvt. Ltd. v. Principal Commissioner CGST [Excise Appeal No. 50790 of 2019 decided on July 23, 2021]*, M/s Nichiplast India Pvt. Ltd. (“the Appellant”) closed down their manufacturing activities and surrendered their Registration Certificate on June 28, 2017.

Subsequently, the Petitioner filed refund claim of unutilised Cenvat Credit in their account (reflected in their ER-1 return for June, 2017) on July 05, 2017.

A show cause notice dated August 14, 2017 (“SCN”) was issued to the Appellants stating that there were no provisions under Central Excise Act, 1944 (“**Central Excise Act**”) and Rules made thereunder to sanction refund in cash of unutilised Cenvat Credit on closure of the unit.

**Order-in-Original-** It was observed that the Appellants had not submitted the reliable supporting documents related to their refund claim and refund claim was rejected.

**Order-in-Appeal-** Held that there is no such provision under the Central Excise Act and Rules made thereunder to sanction refund in cash of unutilised cenvat credit on closure of the unit.

The Hon’ble CESTAT, New Delhi relied on Hon’ble Karnataka High Court case of *Union of India v. Slovak India Trading Company Pvt Ltd. [Civil Appeal No. 5/2006 dated July 07, 2006]* which was subsequently upheld by Hon’ble Supreme Court to hold that the Appellant is entitled to refund of the amount of Cenvat Credit lying in their Cenvat Credit account on closure of business along with interest.

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