
(2021) 03 GAU CK 0029

In the Gauhati High Court

Case No : Writ Petition (C) No. 2101, 2160, 2161, 2162, 2189, 2810 Of 2020

M/S Gemson Melt Pvt. Ltd

APPELLANT

Vs

Union Of India And 2 Ors

RESPONDENT

Date of Decision : 26-03-2021

Acts Referred:

Citation : (2021) 03 GAU CK 0029

Hon'ble Judges : Soumitra Saikia, J

Bench : Single Bench

Advocate : D Saraf, S. S. Gupta, S. C. Keyal, P. Das

Final Decision : Allowed

Judgement

1. Heard Mr. D. Saraf, learned counsel for the petitioner. Also heard Mr. S. C. Keyal, learned ASGI for the respondents.

2. All these Writ Petitions have been filed by the petitioner challenging the rejection of the Central Excise Duty refund claims of the petitioner as well as the demand of recovery of Central Excise Duty refunds along with interest and penalty imposed.

WP(C) No. 2162/2020 has been filed by the petitioner challenging the show cause notice dated 30.03.2012 and the impugned order dated 27.01.2020 passed by the respondent No. 3, whereby the refund claims of the petitioner for the period of October 2010, November 2010, December 2010, January 2011, February 2011, March 2011, April 2011, May 2011, June 2011, July 2011 and August 2011 amounting to Rs.14,54,228/-.

WP(C) No. 2189/2020 filed by the petitioner challenging the show cause notice dated 08.11.2010 and the impugned order dated 27.01.2020 passed by the respondent No. 3 rejecting the claim for duty paid for the period of September 2009, October 2009, November 2009, December 2009, January 2010, February 2010, March 2010, May 2010, June 2010, July 2010, August 2010 amounting to

Rs.26,42,418/-.

WP(C) No. 2810/2020 has been filed by the petitioner challenging the non-processing of its refunds of claims for the period of September 2011 to May 2012 amounting to Rs.9,78,552/-.

WP(C) No. 2101/2020 filed by the petitioner challenging the show cause notice dated 03.06.2011 and the impugned order dated 18.12.2019 passed by the respondent No. 3 amounting to Rs.21,71,123/- confirming the demand of excise duty along with interest and penalty.

WP(C) No. 2160/2020 filed by the petitioner challenging the show cause notice dated 05.05.2010 and the impugned order dated 18.12.2019 passed by the respondent No. 3 confirming the demand of duty along with interest and penalty amounting to Rs.2,96,512/-.

WP(C) No. 2161/2020 filed by the petitioner challenging the show cause notice dated 27.04.2012 and the impugned order dated 18.12.2019 passed by the respondent No. 3 confirming the demand/recovery of Rs.10,80,600/- along with interest and penalty.

3. The essential facts for the purpose of the determination of the lis between the parties are that the petitioner is a Company registered Office at NH- 37, Borsajai, Beltala, Guwahati, 781028 and is represented by its authorized Director in the present proceedings. The petitioner claims to be holding Central Excise Registration No. AAACG5067G-XM-002 and is engaged in the manufacturing of HSD Bar and Rods, TMT Bar and Rods, End cuttings, M S Rolls etc all falling under Chapter-72 of the Central Excise Tariff Act, 1985 and is eligible for claiming exemptions under Notification No. 20/2007 CE dated 25.04.2007. The petitioner claims that its manufacturing units were set up before first day of April, 2007 and that it had undergone expansion by way of increase by not less than 25% in fixed capital investments in plant and machinery for the purpose of expansion. It is stated by the petitioner that its capital investment in the unit before expansion was Rs.38,01,837/- and by way of increased investment towards purchasing of machinery it went up to Rs.65,58,577/-. The expansion of the unit commenced in 2005 and was completed on 06.06.2007.

4. The petitioner who considered itself eligible for the benefits in terms of Notification No. 20/2007 CE dated 25.04.2007 submitted refund claims in respect of duty paid. The Office of the respondent No. 3, Assistant Commissioner, Central Excise and Service Tax (as it was earlier known) issued three refund orders in the months of May, 2009, June, 2009 and July, 2009. The amounts refunded were Rs.42,019/- for the month of May, 2009, Rs.1,83,757/-for the months of June, 2009 and Rs.31,344/- for the month of July, 2009. Against these refund orders issued by respondent No. 3, the respondent No. 2, namely, the Commissioner, Central Excise and Service Tax (as it was earlier known) disagreed with views of respondent No. 3 and directed the respondent No. 3 to file appeals before the Higher Appellate Authority, namely, the Commissioner (Appeals) Central Excise.

5. The Commissioner (Appeals) by its order dated 26.02.2010 rejected the appeals filed by the Department/revenue and held that adjudicating authority, namely, respondent No. 3 had correctly considered and granted the refund orders to the petitioner. Accordingly, the appeals filed by the revenue were rejected. Being aggrieved, the revenue carried the appeals before the Central Excise and Service Tax Appellate Tribunal, Kolkata (hereinafter referred to as "CESTAT"). The CESTAT, however, by its order dated 27.11.2017 dismissed the appeals as the same were below the permissible monetary limits prescribed in respect of litigations to be pursued by the Department/Revenue as per Central Board of Excise and Customs (CBEC) instructions dated 17.12.2015 which was issued in terms of the National Litigation Policy. Against the rejection orders passed by the CESTAT, no further appeal or review was preferred by the Department and consequently the orders passed by the Commissioner (Appeals) upholding the refund orders issued by the respondent attained finality for those respective periods.

6. The show cause notice dated 30.03.2012 was issued to the petitioner during the pendency of the matters before the CESTAT, calling upon the petitioner to show cause as to why the amount of refund claimed by the petitioner in terms of Notification No. 20/2007 CE dated 25.04.2007 for the period of October 2010, November 2010, December 2010 and January 2011 to August 2011 amounting to Rs.14,54,228/- should not be rejected. It was mentioned in the Show Cause Notice that the same would be subject to the outcome of the appeals filed by the Department pending before the CESTAT, Kolkata. The petitioner submitted its objections/reply in response to the said show cause notice issued by the respondent No. 3. The respondent No. 3 by the impugned order dated 27.01.2020 rejected the refund claims of the petitioner as well as refunds granted earlier against which the show cause notice dated 08.11.2010 was also issued. In other words by the impugned order dated 27.01.2020 the refund claims made by the petitioner against which two show cause notices were issued, namely, one dated 08.11.2010 and the other dated 30.03.2012 were rejected. Being aggrieved, W.P.(C) No. 2162/2020 and W.P.(C) No. 2189/2020 have been filed putting to challenge the impugned order dated 27.01.2020 passed by the respondent No. 3.

Similarly by order dated 18.12.2019, the demand of Excise Duty along with penalty and interest to the tune of Rs. 21,71,123/- in respect of Show Cause Notice dated 03.06.2011 issued by the respondent No. 3 was confirmed, which is the subject matter and which order as well as the Show Cause Notice has been impugned in W.P(C) No. 2107/2020.

Excise Duty along with interest and penalty to the tune of Rs. 2,96,512/-which was demanded by Show Cause Notice dated 05.05.2010 was also confirmed by the respondent No. 3 vide order dated 18.12.2019 and which has been impugned in W.P(C) No. 2160/2020.

Excise Duty along with interest and penalty amounting to Rs. 10,80,600/-as per

Show Cause Notice dated 27.04.2012 was also confirmed by the respondent No. 3 vide order dated 18.12.2019 and which has been impugned in W.P.(C) No. 2161/2020.

In respect of the refunds claim for the period of September, 2011 to May, 2012 amounting to Rs. 9,78,552/- which has not been disbursed by the petitioner and therefore effective orders are been sought for from this Court by way of W.P.(C) No. 2810/2020.

7. The contentions raised by the petitioner questioning the impugned rejection of refund order is that the impugned orders dated 27.01.2020 and recovery of demand vide order dated 18.12.2019 could not have been passed by the respondent No. 3 in the face of the order dated 26.02.2010 passed by the Commissioner (Appeals) which is a higher statutory authority. The learned counsel for the petitioner submits that there is no provision under the Central Excise Act and the Rules framed thereunder which permits Subordinate Authority like the respondent No. 3 to disregard the orders passed by the higher authority like the Commissioner (Appeals) and disregard their findings on facts in favour of the assessee.

The further submission of the learned counsel for the petitioner is that the appeals filed by the Revenue/Department against the orders of Commissioner (Appeals) before the CESTAT were dismissed before the CESTAT vide order dated 27.11.2017 as the same were below the monetary limits prescribed by the Central Board of Excise and Customs (CBEC) instruction dated 17.12.2015. In that view of the matter the order passed by the Commissioner (Appeals) is required to be followed by the Department and the respondent No. 3 cannot be permitted to disregard the orders passed by the Higher Authority.

8. The learned counsel for the petitioner submits that in view of the orders passed by the Commissioner (Appeals), the Principle of Res Judicata will be applicable and, therefore, the impugned orders passed by the respondent No. 3 are bad in law, contrary to the provisions of law and the same should, therefore, be set aside and quashed. The learned counsel for the petitioner submits that there are specific provisions available to the Department to question any view arrived at by any Subordinate Departmental Authority by filing appeal etc. However, the views of such Subordinate Authority which were upheld by a higher authority, namely, the Commissioner (Appeals) cannot be permitted to be overturned unilaterally by the another Subordinate Authority collaterally as have been done by issuing the impugned orders. The learned counsel, therefore, submits that these orders be suitably interfered with and set aside and quashed.

9. The learned Departmental counsel disputes the contentions raised by the learned counsel for the petitioner and submits that Principle of Res Judicata is not applicable in revenue matters. The learned departmental counsel submits that the Scheme of Central Excise Act and the Rules framed thereunder permits any authority under the Act to re-visit orders earlier passed, in the event it is

seen that benefits were wrongly or erroneously granted to any assessee. The learned departmental counsel submits that an affidavit has been filed by the Department in WP(C) No. 2162/2020 and craves leave of this Court to refer and to rely on it in respect of all other writ petitions. The department counsel submits that the respondent No. 3 while adjudicating the matters had specifically referred to the discrepancy noticed by him in respect of the orders passed earlier by which benefits were granted to the petitioner/assessee.

10. Under the circumstances, he submits that there is no infirmity with the order impugned and the same ought not to be interfered with in the present proceedings. The learned department counsel further submits that there are sufficient and adequate statutory alternative remedies available to the petitioner which, however, has not been availed of nor has any explanation been furnished as to why the same were not availed of. Under the circumstances, the learned department counsel submits that the writ petitions be dismissed as being devoid of any merit and not maintainable.

11. Having heard the learned counsels for the parties and having perused the pleadings available on record, the short question which arise for consideration of this Court is:-

Whether an order passed by an authority under the Central Excise Act and Rules framed thereunder, namely, the respondent No. 3 herein, whereby refunds were granted earlier to the petitioner/assessee and which order was upheld by the Commissioner (Appeals) coupled with the fact that the further appeals preferred by the Department/Revenue was dismissed on technical ground, namely, the same being below the prescribed minority limit in terms of the Central Board of Excise and Customs (CBEC) instruction dated 17.12.2015, can be re-visited collaterally by another authority?

12. After hearing the learned counsels and after perusal of the pleadings available on record, it is seen that the petitioners claimed refunds for the months of May 2009, June 2009 and July 2009. The same were allowed by the respondent No. 3 by passing orders respective to each of the claims i.e. separate orders for May, 2009, June, 2009 and July, 2009. The respondent No. 2, the Commissioner under the powers conferred under the Act being dissatisfied with the orders passed by the respondent No. 3 granting refund, directed the respondent No. 3 to file appeals before the Higher Appellate Authority, namely, the Commissioner (Appeals). In the Appeals preferred by the Revenue, the Commissioner (Appeals) by its order dated 26.02.2010 upheld the orders of the respondent No. 3 granting refunds for the months of May 2009, June 2009 and July 2009. While, deciding the appeals filed by the Department, the Commissioner(Appeals) narrated in details, the factual matrix involved and referred to various documents and letters by which it concurred with the findings of the Assistant Commissioner while granting refunds for the period of May, 2009, June, 2009 and July, 2009 and claims of the petitioner/assessee regarding substantial expansion at least 25% of its capacity and investments in fixed assets

machinery and consequently upheld the findings of the respondent No. 3 as well as agreed to the claims of the petitioner that it satisfies the requirements stipulated under Notification No. 20/2007 CE dated 25.04.2007 to enable the petitioner to claim for the findings of Central Excise Duty paid. The relevant paragraphs regarding the findings of the Commissioner (Appeals) in respect of the fulfillment by the petitioner of the requirements stipulated under the Notification No. 20/2007 dated 25.04.2007 are extracted as under:-

"10. I find that the respondents were allowed to function under the Notification No. 20/2007 CE dated 25.04.2007 and there was no dispute whatsoever in getting the refund under the Notification till May, 2009.

11. The allegation of the Department as regards the certificate dated 6th June, 2007 issued by the Chartered Accountant, in as much as the said certificates did not specifically mention the amount of fixed capital investment in the plant and machinery as on the date of undertaking the expansion program, the actual date of commencing the expansion programme and the exact percentage of the addition of fixed capital investment in the plant and machinery, the respondent stated that the CA certificate dated 6th June, 2007 clearly mentioned the fixed capital investment in the unit (Rolling Mill unit of Gemson Melt Pvt. Ltd.), before the expansion was Rs.38,01,837/- which was the position as on 31.03.2007. As regards non declaration of the actual date of commencing the expansion programme they stated that, the expansion programme was completed only on 6th June, 2007 and on the same date all the investment made till date on the expansion programme was capitalized and till then whatever investment had been made had only to be classified as work-in-progress till completion of installation of plant & machineries. The details of machineries, equipments, etc. procured were duly intimated to the department alongwith the date of purchase. The source of acquisition of the assets and statements of records/ documents submitted by the respondent on various dates would clearly indicate that the expansion programme commenced in the year 2005. Further this requirement is not the condition precedent in the Notification No.20/2007 CE dated 25.04.2007. Further, they stated that the quantum of increased investment of Rs.65,58,577/- undertaken during 01.04.2007 to 06.06.2007 upon the existing investment of Rs.38,01,837/- as on 31.03.2007 was duly intimated to the department. Hence, the Assistant Commissioner has rightly accepted the claim of addition of fixed capital investment in plant & machinery by investing an amount of Rs. 65,58,577/-.

12. The allegation of the Department as regards non verification of the actual date of commencement of commercial production with the additional items of plant & machinery by the Asstt. Commissioner the respondent stated that, they have intimated the department vide their letter dated 09.07.07 alongwith all the documents as were required in support of their claim of exemption. All the facts were duly verified from time to time by the department as per various orders till date and, that fact is on record in various orders for refund granted to the

company, and, as such the allegation is totally uncalled for and the Asstt. Commissioner has rightly stated the unit has started commercial production w.e.f 6th June, 2007.

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15. I find that the crux of the dispute is in the CA certificate showing investment in M/S Gemson Melt Private Limited (Lessee of Bhagawati Steel Cast Limited) up to 31.03.2007 amounting to Rs. Nil. This is because the lessee M/S Gemson Melt Private Limited has not invested any amount in the plant and machinery prior to 31st March, 2007 in the unit of M/S Bhagawati Steel Cast Limited acquired by them on lease. The facts remains that M/S Bhagawati Steel Cast Limited has their own investment of Rs.38,01,837/- prior to 31.03.2007. From the audited balance sheet produced by the respondent I find that the figure is reflected in their financial statement which is in accordance with the CA certificate submitted by them".

13. The order of the Commissioner (Appeals) dated 26.02.2010 was carried to the CESTAT which however was dismissed by the CESTAT on 27.11.2017 because of non-fulfillment of monetary limits in terms of Central Board of Excise and Customs (CBEC) Instructions dated 17.12.2015.

14. A perusal of the show cause notices dated 30.03.2012 which was issued by the Department during the pendency of the appeals before the CESTAT calling upon the petitioner to show cause in respect of refunds for the period of October, 2010 to August, 2011 amounting to Rs.14,54,228/- as well as the Show Cause Notice dated 08.11.2010 reveals that the findings of the Commissioner (Appeals) in its order dated 26.02.2010 is not referred to in the said show cause notice issued by the respondent No. 3. The respondent No. 3 by impugned order dated 27.01.2020 rejected both refunds claim of the petitioner, namely, refund of Rs.26,42,418/- for the month September, 2009, September, 2010 Rs.14,54,228/- for the months of October, 2010 to August, 2011. In the recital of the impugned order the respondent No. 3 refused to accept that the petitioner complied with the requirement of the Notification No. 20/2007 dated 25.04.2007 regarding investments of fixed assets more than 25% towards expansion of the manufacturing unit. Although, the order of the Commissioner (Appeals) is referred to, however, the respondent No. 3 did not elaborate as to why it disagreed with the findings of the Commissioner (Appeals) although, the petitioners submitted their objections in response to the said show cause notice and had also referred to the findings of the Commissioner (Appeals) therein. The respondent No. 3 in its order held that although the appeals before the CESTAT have been withdrawn on the basis of monetary limits for pursuing litigation as prescribed by the Central Board of Excise and Customs, the respondent No. 3 was of the opinion that the CESTAT orders have not binding effect on the adjudication authority to take an particular stand in the matter. There is no

discussion in the impugned order as to the effect of the findings of the fact which is reflected in the Commissioner (Appeals) order.

Similarly in the Show Cause Notices dated 03.06.2011, 05.05.2010 and 27.04.2012 which were sustained by a common order dated 18.12.2019 passed by the respondent No. 3 raising respective demands for the periods, it is seen from the recital of the common order dated 18.12.2019 that there is no reference as to why the respondent No. 3 disagreed with the findings of the Commissions (Appeals) in the order of the Commissioner (Appeals) dated 26.02.2010.

15. Although, the Principle of Res Judicata is strictly not applicable to revenue matters, however, a finding of fact by a higher authority like the Commissioner (Appeals) cannot be ignored. The importance of the requirement of maintaining the judicial discipline by Quasi Judicial Authority like the respondent No. 3, as time and again been stressed upon by the Apex Court in catena of Judgments. In the case of Union of India and Ors -Vs- Kamlakshi Finance Corporation Limited reported in 1992 Supp (1) SCC 443 held that the order of the Appellate Collector is pending on the Assistance Collector and the working within his jurisdiction order of the Tribunal is binding upon the Assistant Collector and the Appellate Collector who function under the jurisdiction of the Tribunal. The Principles of judicial discipline require that the orders of the higher appellate authority should be followed unreservedly by the Subordinate Authority. The Apex Court held that the orders of Higher Appellate Authority cannot be disregarded as being not "acceptable" and the same cannot be ground for not following it unless its operation has been suspended by a competent Court. The relevant paragraphs of the Judgment are extracted herein below:-

6. Sri Reddy is perhaps right in saying that the officers were not actuated by any mala fides in passing the impugned orders. They perhaps genuinely felt that the claim of the assessee was not tenable and that, if it was accepted, the Revenue would suffer. But what Sri Reddy overlooks is that we are not concerned here with the correctness or otherwise of their conclusion or of any factual mala fides but with the fact that the officers, in reaching their conclusion, by-passed two appellate orders in regard to the same issue which were placed before them, one of the Collector (Appeals) and the other of the Tribunal. The High Court has, in our view, rightly criticised this conduct of the Assistant Collectors and the harassment to the assessee caused by the failure of these officers to give effect to the orders of authorities higher to them in the appellate hierarchy. It cannot be too vehemently emphasised that it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities. The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities

should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not "acceptable" to the department - in itself an objectionable phrase - and is the subject matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent court. If this healthy rule is not followed, the result will only be undue harassment to assesseees and chaos in administration of tax laws.

7. The impression or anxiety of the Assistant Collector that, if he accepted the assessee's contention, the department would lose revenue and would also have no remedy to have the matter rectified is also incorrect. Section 35-E confers adequate powers on the department in this regard. Under sub-section (1), where the Central Board of Direct Taxes come across any order passed by the Collector of Central Excise with the legality or propriety of which it is not satisfied, it can direct the Collector to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Board in its order. Under sub-section (2) the Collector of Central Excise, when he comes across any order passed by an authority subordinate to him, if not satisfied with its legality or propriety, may direct such authority to apply to the Collector (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Collector of Central Excise in his order and there is a further right of appeal to the department. The position now, therefore, is that, if any order passed by an Assistant Collector or Collector is adverse to the interests of the Revenue, the immediately higher administrative authority has the power to have the matter satisfactorily resolved by taking up the issue to the Appellate Collector or the Appellate Tribunal as the case may be. In the light of these amended provisions, there can be no justification for any Assistant Collector or Collector refusing to follow the order of the Appellate Collector or the Appellate Tribunal, as the case may be, even where he may have some reservations on its correctness. He has to follow the order of the higher appellate authority. This may instantly cause some prejudice to the Revenue but the remedy is also in the hands of the same officer. He has only to bring the matter to the notice of the Board or the Collector so as to enable appropriate proceedings being taken under Section 35-E(1) or (2) to keep the interests of the department alive. If the officer's view is the correct one, it will no doubt be finally upheld and the Revenue will get the duty, though after some delay which such procedure would entail."

16. The finding of fact recorded by the Commissioner of Appeals in respect of the fulfillment of the requirement under Notification No. 20/2007 dated 25.04.2007 by the petitioner, in view of the dismissal of the Revenue appeals by the CESTAT has attained finality. Such findings of fact cannot be unilaterally disregarded by the Departmental Officer merely because it was not agreeable to them. It was incumbent upon the respondent No. 3 to reflect in its order, impugned in the present proceedings, the grounds and reasons for disregarding the said finding of fact by the Commissioner (Appeals)

17. In the absence of any clear finding by the respondent No. 3 to support its disagreement with the finding of fact by the Commissioner of Appeals, mere disagreement with the order of the Higher Authority, namely, Commissioner (Appeals) will be opposed to the Principle of judicial discipline required to be maintained by Quasi Judicial Officers exercising Quasi Judicial functioning. Such, actions of the respondent No. 3 cannot be countenanced in view of the law laid down by the Apex Court.

18. The Judgment relied upon by the Department counsel is largely on the question of non-applicability of the doctrine of the Res Judicata in respect of the revenue proceedings. Further Judgments have also been relied upon to buttress the contention that interpretation in case of exemption notifications must be strictly made. The beneficiaries claiming under exemption Notifications must satisfy each of the pre-conditions and there cannot be any deviation from the requirement of such pre-conditions laid down in the exemption notifications. These judgments referred to by the learned standing counsel for the respondents do not come to the aid of the respondents for the purposes of the present proceedings inasmuch as although the Principle of Res Judicata may not be strictly applicable in Revenue Proceedings but in view of the finding of fact by a Higher Authority, namely, the Commissioner (Appeals) in respect of the fulfillment of the requirement by the petitioner making them eligible for claiming the refund, the same cannot be disregarded by a Subordinate Authority, namely, the respondent No. 3 unilaterally without there being any provision under the law to review such findings by such Subordinate Authority. Such findings of the Higher Appellate Authority, namely, the Commissioner(Appeals) also attained finality in view of the dismissal of the appeals preferred by the revenue before the CESTAT.

19. In view of all the discussions above, the impugned orders dated 27.01.2020 and 18.12.2019 passed by the respondent No. 3 cannot be allowed to sustain and the same is, therefore, set aside and quashed. Considering the fact that the disagreement by the respondent No. 3 with the findings of the Higher Appellate Authority, namely, the Commissioner (Appeals) is on factual aspect, records of which are available in the Department, the matter is remanded back to the authorities and the respondent authority is directed to pass appropriate orders afresh in the matter after giving adequate opportunities to the petitioner within a period of 3(three) months from today. While deciding the matter, the respondent No. 3 cannot disregard collaterally the findings of the facts by the Commissioner (Appeals) in its order dated 26.02.2010 unless the same is questioned by way of an Appeal/Review/Revision as the case may be. The respondent No. 3 upon passing necessary orders in the show causes issued upon affording the opportunity of hearing to the petitioner shall cause service of such order passed upon the petitioner. Insofar as the claims in WP(C) No. 2810/2020 are concerned the respondent authority are directed to examine the claims of refunds sought for by the petitioner for the period of September 2011 to May 2012 in the light of the discussions and directions above.

20. Needless to say that if the petitioner is aggrieved the remedies available under the statute can be availed of by the petitioner.

21. With the above observations, these Writ petitions are allowed in part as indicated above. No order as to cost.