

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD**

REGIONAL BENCH - COURT NO. 3

SERVICE TAX Appeal No. 11961 of 2019-SM

[Arising out of Order-in-Original/Appeal No KCH-EXCUS-000-APP-057-2019 dated 16.05.2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-RAJKOT]

Aashirvad International

.... Appellant

8-9, Mundra GIDC, Opp. Arihant Marble, Baroi Road
MUNDRA, GUJARAT-370421

VERSUS

Commissioner of Central Excise-KUTCH, Gandhidham Respondent

Central Excise & Service Tax Commissionerate,
Central Excise Bhavan Plot No. 82, Sector 8,
Gandhidham (Kutch), Gujarat

APPEARANCE :

None for the Appellant

Shri G. Kirupanandan, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)

DATE OF HEARING /DECISION: 13.06.2022

FINAL ORDER NO. A/10693 / 2022

RAMESH NAIR :

The issue involved is whether the appellants refund claim is rightly rejected on time-bar under Notification No. 41/2012-ST, as the appellant filed refund claim after stipulated time of one year as prescribed in the notification.

2. When the matter was called out, none appeared on behalf of the appellant.

3. Shri G. Kirupanandan, learned Superintendent (AR) submits that time limit is a mandatory requirement as prescribed in the notification and there is no dispute that appellant has filed refund claim after one year therefore,

the refund was rightly rejected on time-bar. He placed reliance on the judgment of this Tribunal in the case of *Life Long India Limited vs. CCE & ST, Meerut – 2016 (43) STR 314 (Tri. Del.)* and *Eagle Flask Industries Limited vs. CCE, Pune – 2004 (171) ELT 296 (SC)*. He submits that the time limit is not just a procedural requirement but it is mandatory and for non-compliance of time limit the appellant is not entitled for the refund.

4. I have considered the submissions made by learned Authorised Representative and perused the record. On perusal of record, I find that appellant has not disputed the delayed filing of refund claim. It is their submission that time-limit is a procedural requirement and breach of said requirement does not disentitle the appellant for the refund claim. I do not agree with the appellant as the fact is not disputed that the appellant have filed the refund claim beyond one year time limit which is mandatory and there is no provision for condoning of delay. Accordingly, in my view the lower authorities have rightly rejected the refund claim on time-bar. Accordingly, the impugned order is upheld and the appeal is dismissed.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)