

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 77143 of 2018

(Arising out of Order-in-Appeal No. 17/GHY/CE(A)/GHY/2018 dated 21.02.2018 passed by Commissioner (Appeals), CGST, Central Excise & Customs, Guwahati.)

M/s Om India Trading Company Private Limited,
(East Market, Karimganj Bazar, Karimganj Assam-788710)

..Appellant

VERSUS

Commissioner of CGST & Central Excise, Guwahati.
Nilamoni Phukan Path, Christan Basti, Guwahati.

...Respondent

..

APPEARANCE :

Shri Avra Majumdar, Advocate for the Appellant

Shri S. S. Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER No...75585/2023

DATE OF HEARING : 07.06.2023

DATE OF DECISION : 07.06.2023

PER ASHOK JINDAL :

The appellant is an appeal against the impugned order wherein the refund claim has been rejected as barred by limitation by the adjudicating authority and the same has been confirmed by the Learned Commissioner (Appeals).

2. The facts of the case are that the appellant is an exporter of goods who filed refund claim under Notification No.41/2012 ST dated 29.06.2012 with relevant documents. The said refund claim was sanctioned to the appellant thereafter, appellant realized that they have claimed less amount of refund and filed another refund claim on 15.06.2017 for differential amount of refund. The said refund claim was rejected by the adjudicating authority holding that the same is barred by limitation. On appeal, the Learned Commissioner (Appeals)

also rejected the refund claim. Against the said order, the appellant is before me.

3. The Learned Counsel for the appellant submit that initially by mistake, the appellant claimed less refund and on realizing that they have claimed less refund, the appellant filed another refund claim therefore, the impugned refund claim is in continuation of the earlier refund claim therefore, the same cannot be dismissed as barred by limitation. It is only due to the appellant's mistake they claimed less refund therefore, their refund claim be sanctioned.

4. Heard the Learned Counsel for the appellant.

5. I find that in this case initially appellant filed refund claim which was already sanctioned to the appellant, therefore the matter comes to end. Later on, filing the refund claimed by the appellant cannot be entertained as this stage being continuation of the initial refund claim by the appellant and it is admitted fact the impugned refund claim has been filed beyond the time limit prescribed under Section 11B of the Act.

6. In that circumstances, I do not find any infirmity in the impugned order the same is upheld and the appeal filed by the appellant is dismissed.

(Dictated and pronounced in the open court)

Sd/-

(Ashok Jindal)
Member (Judicial)

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