

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

Service Tax Appeal No.41669 of 2016

(Arising out of Order-in-Appeal No.78/2016 dated 16.6.2016 passed by the
Commissioner of Central Excise (Appeals – II), Coimbatore at Madurai)

And

Service Tax Appeal No.42459 of 2017

(Arising out of Order-in-Appeal No.75/2017 (TVL) dated 31.8.2017 passed by the
Commissioner of Central Excise (Appeals – II), Coimbatore at Madurai)

M/s. V.V. Titanium Pigments Pvt. Ltd.

Appellant

No. A-81, SIPCOT Industrial Complex
South Veerapandiapuram P.O.
Tuticorin – 628 002.
198, Pudhumakkadu
Veeranam Palayam Village
Kangeyam – 636 007.

Vs.

Commissioner of GST & Central Excise

Respondent

Central Revenue Building
Tractor Road, NGO 'A' Colony
Tirunelveli – 627 007.

APPEARANCE:

Shri S. Venkatachalam, Advocate for the Appellant
Smt. K. Komathi, ADC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Final Order Nos. **40342-40343 / 2022**

Date of Hearing : 13.10.2022

Date of Decision: 13.10.2022

The issue in both these appeals being the same and connected, they are heard together and disposed by this common order.

2. The appellant had filed refund claim of service tax paid on input service used for export of the manufactured goods in terms of Notification No. 41/2012-ST dated 29.6.2012. The refund claim pertains to the period October 2013 to March 2014 and was received by the department on 7.10.2014. The said claim was returned to the appellant to rectify the defects and submit with necessary documents. The refund claim was then resubmitted on 20.1.2015. After due process of law, the refund sanctioning authority sanctioned the refund of Rs.1,58,739/-. Against such order the department filed appeal before the Commissioner (Appeals) which was allowed in favour of the department. Against this order passed by the Commissioner (Appeals), the appellant has filed the present appeal No. ST/41699/2016. Meanwhile, a Show Cause Notice was issued to the appellant proposing to recover the erroneously granted refund. The said Show Cause Notice was adjudicated which culminated in favour of the department thereby rejecting the refund that was sanctioned earlier. Against this, appeal was filed by the appellant before Commissioner (Appeals) who upheld the same. Aggrieved by such order, appellant has filed Appeal No. ST/42459/2017.

3. The learned counsel Shri S. Venkatachalam submitted that the ground for denying refund is that according to department the period of one year should be computed from the date of resubmitting the refund claim and not the date of original claim. It is argued by the learned counsel that the refund claim was

returned to the appellant requesting the appellant to rectify the defects and resubmit the same. The appellant had accordingly resubmitted after rectifying the defects. The time ought to be computed from the date of original submission of the refund claim and not the date of resubmitting the claim after rectifying the documents. To support his argument, he relied upon the decision of the Tribunal in the case of Chennai Petroleum Corporation Ltd. Vs. Commissioner of GST and Central Excise, Chennai as reported in 2019 (369) ELT 1636. He prayed that the appeals may be allowed.

4. The learned AR Smt. K. Komathi supported the findings in the impugned order.

5. Heard both sides.

6. The issue that requires to be analysed in these present appeals is whether the date of one year has to be computed from the date of resubmission of the refund claim or the date of original submission of the claim. Needless to say that the date of original submission has to be taken for computing the period of one year as it is the date on which the appellant has filed the claim initially. The claim has been returned and not processed and rejected by the department. When the claim is returned for resubmission, the appellant is allowed to make the required rectification. On such score, I am of the view that rejection of the refund claim on the ground that the same is time-barred when computed from date

of resubmission of the refund claim is erroneous and requires to be set aside which I hereby do.

7. From the foregoing, the impugned orders are set aside. The appeals are allowed with consequential relief, if any.

(Dictated in open court)

(SULEKHA BEEVI C.S.)
Member (Judicial)

Rex