

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

REGIONAL BENCH – COURT NO. 02

Service Tax Appeal No. 11894 of 2016-SM

[Arising Out Of OIA-CCESA-VAD-APP-II-VK-185-2016-17 Dated- 29/07/2016 Passed By
Commissioner of Central Excise, Customs and Service Tax-VADODARA-II]

Rallis India Limited`

Plot No. Z 110, Dahej Sez,
Dahej, Bharuch, Gujarat

.....Appellant

VERSUS

C.C.E-Bharuch

Vadodara-II,GST Bhavan,Subhanpura,Vadodara
Vadodara, Gujarat-390023

.....Respondent

APPEARANCE:

Shri. Bharat Mathur, Chartered Accountant for the Appellant
Shri. A.R. Kanani, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA MEMBER (JUDICIAL)

FINAL ORDER NO. 10074 /2025

DATE OF HEARING: 29.01.2025
DATE OF DECISION:29.01.2025

The learned Counsel appearing for the party states that they are aggrieved as they were entitled to claim refund for supply made to them which they were otherwise eligible under Notification No. 40/2012-ST for the month of June, 2013. He further states that the refund to them for period July to September, 2013 was duly given to them under Notification No. 12/2013-ST dated 1st July, 2013 but refund for the 4th month filed by them for the period of June, 2013 was not allowed to them. This as per them is only a procedural lapse and should not have led to denial of substantive benefit of refund to them.

2. Learned AR draws the attention of this Court to the Notification No. 12/2013-ST dated 1st July, 2013 and states that the party had filed the refund under this notification for the period June, 2013 to September, 2013. After due consideration of the claim and also considering the fact the Notification No. 12/2013-ST came into effect only from 1st July. 2013 and

could not have been applied for the month of June, 2013 as it was of a prior date from coming into force of the notification. The refund claim was properly considered by the department and allowed as per law for three months and not for June, 2013.

3. Considered the rival submissions. This Court finds substance in the stand of the department and rejection of part claim only for the month of June, 2013, as the notification under which party claimed the same came into existence only from 1st July, 2013. Even if, stand of the party that it was otherwise entitled to benefit even for June, 2013 under a separate Notification No. 40/2012-ST is considered correct then ideally, they should have filed a separate claim to be considered as per terms and conditions of that notification. Same is clearly a lapse which cannot be termed as mere procedural lapse since the requirement to file refund claim as per the statutory provision, under Finance Act, 1994 (as per borrowed provision from central Excise Act, 1944 of Section 11B) is a requirement having its own ramifications of limitation and fulfilment of conditions of Notification No. 40/2012-ST. The lapse of non filing of refund under proper notification separately for June, 2013 cannot be termed as mere procedural lapse. The department cannot be expected to consider refund claim if it is not indicated to them as to under which notification and provisions same has been sought. Therefore, this Court holds that in the facts and circumstance of the matter, the lapse is not merely procedural but substantive emanating from statutory provisions. Order of the lower authority is therefore sustained.

4. Appeal is accordingly rejected.

(Dictated and pronounced in the open Court)

(SOMESH ARORA)
MEMBER (JUDICIAL)