CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70348 of 2019-Single Member

(Arising out of Order-in-Appeal No. NOI-EXCUS-002-APP-1625-1626-17-18 dated 15/01/2018 passed by Commissioner (Appeals) Central Goods & Service Tax, Noida)

M/s Zaigham Enterprises .....Appellant

(786, Anand Vihar Colony, Pilibhit Bye Pass, Bareilly, U.P.-243005)

VERSUS

Commissioner of Customs, Central Excise

& Service Tax, Noida ....Respondent

(Kamla Nehru Marg, Bareilly, U.P.)

APPEARANCE:

Absent for the Appellant
Shri Anupam Kumar Tiwari, Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)

FINAL ORDER NO. - 71523 / 2019

Date of Hearing : 06 August, 2019
Date of Decision : 06 August, 2019

PER: ARCHANA WADHWA

On matter being called nobody appeared for the appellant. Accordingly, I have heard learned A.R. appearing for the Revenue and have gone through the impugned order.

2. As per facts on record, the appellant filed a refund claim of Rs.1,07,278/- consequent to amendment in Mega Notification

No.25/2012 dated 20/06/2012 by way of amending Notification No.09/2016-ST dated 01/03/2016. The said amendment provided refund of taxes paid during the period 01/04/2015 to 28/03/2016 on services provided under a contract entered prior to 01/03/2015. Refund applications were required to be filed by the assessee within a period of six months from the date when the President has given his assent to the Finance Bill. The said assent was given on 14 May, 2016 which became the relevant date for the purpose of considering the limitation of six months as provided in the Notification.

3. The appellant's refund application was filed on 18/11/2016 i.e. beyond the period of six months as provided in the said Notification. Accordingly, the matter was taken up by the Original Adjudicating Authority who, rejected the refund claim on the point of limitation, after issuance of show cause notice and following the due adjudication proceedings. On appeal, Commissioner (Appeals) upheld the said order and hence the present appeal.

4. The Appellate Authority has observed that as per Section 102 inserted in the Finance Bill to allow the refund of duty for the period 01/04/2015 to 28/03/2016, an application for refund is to be filed within six months from the date on which the Finance Bill, 2016 received the President assent. The said assent was given on 14 May, 2016 and therefore refund applications were required to be filed by 13/11/2016 the appellants have admittedly filed the application on 18/11/2016. The said fact is not being disputed by the appellant and their only contention is that as he was not well, two days delay may be condoned.

5. I find that there is no power or jurisdiction of this court to interfere in the legislation so as to enlarge the period of limitation as provided in the Notification. The beneficial Notifications have to be interpreted strictly and once the condition of the Notification is not satisfied, the benefit cannot be extended. The Authorities working under the Act are bound by

the provisions of the Act and Notification in question has not given any powers to condone the time period, as held by the Hon'ble Apex Court in the case of Hongo India (P) Ltd. 1998 (98) E.L.T. 583 (S.C.). As such, I find no merits in the appeal. The same is accordingly rejected.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Lks