

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38, MG Marg Civil Lines, Old Red Building, Allahabad-211001
Regional Branch, Allahabad

Dated: 12/07/2017

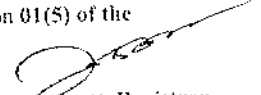
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70614/2017-SM|BRI dated 07/07/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.


 Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/540/2010	CTA APPARELS PVT. LTD. C-32, SECTOR-58, NOIDA.

	Name and Address of Respondent
2	-C.C.E. NOIDA C-56/42, Sector-62, Noida-201307

Copy To

3 Advocate(s) / Consultant(s):

Radhey Shyam Advocate
108, Lawyers Chambers, High Court, Allahabad

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, F-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad -- 38

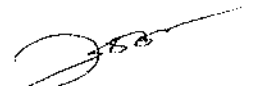
12 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032

14 C.D.R.

15 Office Copy

16 Guard File


 Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. 1

APPEAL No.ST/540/2010-ST[SM]

(Arising out of Order-in-Appeal No. 09/CE/APPL/NOIDA/10 dated
21/01/2010 passed by Commissioner of Central Excise & Customs
(Appeals), Noida)

M/s CTA Apparels Pvt. Ltd.

Appellant

Vs.

Commissioner of Central Excise, Noida

Respondent

Appearance:

Shri Radhey Shyam, Advocate

for Appellant

Shri Mohammad Altaf, Assistant Commissioner (AR).

for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

Date of Hearing : 07/07/2017
Date of Decision : 07/07/2017

FINAL ORDER NO-706121/2017.....



Per: Anil Choudhary

The present appeal is filed by appellant against Order-in-Appeal No. 09/CE/APPL/NOIDA/10 dated 21/01/2010 passed by Commissioner of Central Excise & Customs (Appeals), Noida.

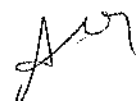
2. The issue in this appeal, filed by the appellant-(an exporter) is whether the claim of refund for the Quarter ended March, 2008 filed vide a letter dated 11/07/2008, received in the office of the Assistant

Commissioner on 25/08/2008, whether it have been rightly rejected on the ground of limitation.

3. Heard the parties.

4. Having considered the rival contentions, I find that the learned Commissioner (Appeals) have upheld the rejection on the ground of limitation, holding that the time-limit for filing a refund claim under clause 2(e) of Notification No.41/2007-ST, was 60 days from the end of the relevant quarter. I find, the rejection of appeal, on the ground of limitation to be bad, as the time-limit stood extended to 6 Months vide the amending Notification No.32/2008-ST dated 18/11/2008 and the time-limit stood further extended to one year vide Notification No.17/2009-ST, which was in supersession of the original Notification No.41/2007-ST. Accordingly, I hold that rejection of the claim on the ground of limitation is bad, as the limitation period have been modified to one year. I further hold that the effect of Notification No.32/2008-ST and 17/2009-ST is retrospective with effect from the date of Notification No.41/2007-ST, as the Notifications have been issued by way of substitution and/or supersession.

5. Accordingly, I allow this appeal by way of remand to the adjudicating authority, who is directed to consider the refund claim on merits and pass a reasoned order, within a period of 30 days, from the date of receipt of a copy of this order and also grant the



refund arising, if any, with interest, as per Rules. The appellant is also directed to appear, with a copy of this order before the adjudicating authority and seek an opportunity of hearing.

(Dictated in Court)

-Sd/-

(ANIL CHOUDHARY)

Member(JUDICIAL)

akp

प्रमाणित प्रतः/Certified True Copy

17/07/2018
सहायक पंजीयन/Asstt. Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकार/ (C.E.S.T.A.T.)
38, एल.जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001