FAX : 0532-2400149 REGISTERED / AD

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[BR] 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, 1-8, 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- 70612I/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 प्रति/Certified True Copy
17/07/2017
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001