CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH
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REGIONAL BENCH – COURT NO. 1

Application No. E/EH/60273/2019
Appeal No. E/61267/2018

[Arising out of OIA No. J&K-EXCUS-APP-340-17-18 dated 12.03.2018 passed by the Commissioner (Appeals) of CGST, Jammu & Kashmir]

M/s Coromandel International Ltd. : **Appellant (s)**
Phase-i,lane 4,ind Complex,
Bari Brahamana, Jammu and Kashmir
Vs

CCE & ST- Jammu & Kashmir : **Respondent (s)**
OB-32, RAIL HEAD COMPLEX,
JAMMU & KASHMIR 180012

Application No. E/EH/60283-60284/2019
Appeal No. E/61268-61269/2018

[Arising out of OIA No. J&K-EXCUS-APP-340-17-18 dated 12.03.2018 passed by the Commissioner (Appeals) of CGST, Jammu & Kashmir]

M/s Coromandel International Ltd. : **Appellant (s)**
Phase-i,lane 4,ind Complex,
Bari Brahamana, Jammu and Kashmir
Vs

CCE & ST- Jammu & Kashmir : **Respondent (s)**
OB-32, RAIL HEAD COMPLEX,
JAMMU & KASHMIR 180012

APPEARANCE:
Shri Gautam Chugh, Advocate for the Appellant
Shri Bhasha Ram, Authorised Representative for the Respondent

CORAM : HON'BLE Mr. ASHOK JINDAL, MEMBER (JINDAL)
HON'BLE Mr. BIJAY KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No. A/60537-60539 / 2019

Date of Hearing:20.05.2019
Date of Decision: 20.05.2019
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Per : Mr. Ashok Jindal

Considering the fact that the issue is squarely covered by the decision of this Tribunal in the applicant's own case, therefore, we allow the applications for early hearing of the appeals and the appeals are taken up together for final disposal today itself.

2. The facts of the case are that the appellant initially filed refund claim before the adjudicating authority, the appellant applied for fixation of special rates on the items manufactured by them before the Ld. Commissioner. Before deciding the said special rates, the adjudicating authority sanctioned the refund claim upto the value addition as per the notification, but the amount of refund claim was more than the value addition as per said special rates, the refund claim was rejected by the adjudicating authority. That order was challenged before the Ld. Commissioner (Appeals) only on the ground that as their application for special rate of duty has been pending before the Commissioner, therefore, the adjudicating authority is to be directed to keep pending the refund claim till disposal of their application for special rates. But, the Ld. Commissioner (Appeals) passed the order by exceeding his jurisdiction as the ground on which the order is passed. Therefore, the appellant is before me.

3. Heard the parties.

4. Considering the fact that in the appellant's own case for the earlier period vide Final Order No. 63461-63468/2018 dated 19.11.2018, this Tribunal has passed the following order:-

> *"6. Considering the fact that at the time of entertaining the refund claim filed by the appellant before the adjudicating authority, their claim for fixation of special rate was pending before the Ld. Commissioner, in that circumstances, the impugned orders deserve no merits. Accordingly, the same are set-aside and the matters are remanded back to the adjudicating authority to decide the issue after special rate decided by the Ld. Commissioner. In that circumstances, by setting aside the impugned orders and the matters are remanded back to the adjudicating authority to entertain the refund claim of the appellant after decision of the special rate decided by the Ld. Commissioner as claimed by the appellant."*

As the issue has already been settled by this Tribunal, therefore, we set-aside the impugned order and the matter are remanded back to the adjudicating authority as directed herein above.

5. In result, the appeals are allowed by way of remand.

(Dictated & pronounced in the Court)

(Ashok Jindal)
Member (Judicial)

(Bijay Kumar)
Member (Technical)

G.Y.