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

Appeal No. ST/61994/2018

[Arising out of OIA No. CGST/Appeal/GGM/Collectcent/105/2018/1903 DATED 25.09.2018 passed by the Commissioner (Appeals) of Central Goods and Service Tax, Gurugram]

M/s Collectcent Digital Media Pvt Ltd. **: Appellant (s)**
N 14/36, 1 St Floor Dlf Phase-ii
GURGAON, HARYANA, 122001

Vs

CCE & ST- Gurugram-I **: Respondent (s)**
Plot No 36 & 37, ,Sector 32, NEAR MEDANTA HOSPITAL
Gurgaon, Haryana, 122001

With
Application No. ST/COD/60128/2019
Appeal No. ST/60221/2019

[Arising out of OIA No. CGST/Appeal/GGM/Collectcent/105/2018/1903 DATED 25.09.2018 passed by the Commissioner (Appeals) of Central Goods and Service Tax, Gurugram]

M/s Collectcent Digital Media Pvt Ltd. **: Appellant (s)**
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Vs

CCE & ST- Gurugram-I **: Respondent (s)**
Plot No 36 & 37, ,Sector 32, NEAR MEDANTA HOSPITAL
Gurgaon, Haryana, 122001

APPEARANCE:
Shri Aman Pratap Singh, Advocate for the Appellant
Shri H. S. Brar, Authorised Representative for the Respondent

CORAM : HON'BLE Mr. ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER No. 60921-60922 / 2019

Date of Hearing/Decision: 31.10.2019

Per : Mr. Ashok Jindal

Appeal No. ST/60221/2019, the applicant filed an application seeking condonation of delay of 64 days.
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2. Considering the reasons for causing delay has been explained satisfactorily, therefore, the delay is condoned.

3. The appellants are in appeals against the impugned orders, wherein their refund claims has been rejected as time barred filed under Notification No. 27/2012-CE N.T dated 18.06.2012.

4. The facts of the case are that the appellant filed two refund claims for the period April 2016 to June 2016 and January 2016 to March 2016 on 14.06.2017 and 30.03.2017 respectively. The said refund claims have been rejected on the ground that the foreign remittances were received prior to one year from the date of filing the refund claims are barred by limitation in terms of Notification No. 27/2012-CE N.T dated 18.06.2012. Against those orders, the appellant is before me.

5. Ld. Counsel for the appellant submits that the issue has been settled by this Tribunal in the case of ***Neo Group Services India Pvt. Ltd. vs. C.C. Bangaluru east 2018 (11) TMI 978 CESTAT Bangaluru***, therefore, the refund claims be allowed.

6. On the other hand, the Ld. AR opposed the contention of the Ld. Counsel and submitted that in the case of ***Neo Group Services India Pvt. Ltd. (supra)*** this Tribunal has followed the decision of the larger bench of this tribunal in the case of ***CCE, Cus & ST- Bangaluru vs. Span Infotech (India) Pvt. Ltd. 2018 (12) GSTL 200 (Tri.-LB)*** wherein but in the said case, the observation of this Tribunal is that after amendment the relevant date is to be considered as the date of receipt of foreign exchange. Therefore, this Tribunal in the case of ***Neo Group Services India Pvt. Ltd. (supra)*** as mis-interpreted the observations of the larger bench of this Tribunal, in that circumstances, the said order cannot be relied upon.

7. Heard the parties and considered the submissions.

8. The main reliance placed by the Ld. AR is the observation of the larger bench in the case of ***Span Infotech (India) Pvt. Ltd. (supra)***, I have gone through the said observation although this Tribunal made an observation, but finally relied on the decision of the constitutional bench of the Hon'ble Apex Court in the case of ***Commissioner of Income Tax vs. Vatika Township Pvt. Ltd. 2017 (367) ITR 466 (SC)*** and held that the refund claim under Rule 5 of CCR, 2004 may be taken as the end of the quarter in which the FIRC is received, in cases where the refund claims are filed on a quarterly basis. Admittedly, in the cases, in hand, the refund claim required to be filed on quarterly basis in terms of Rule 5 of CCR, 2004. Therefore, the appellant were required to file refund claims within one year from the date when the quarter ends and the same view was taken by this Tribunal in the case of ***Neo Group Services India Pvt. Ltd. (supra).*** In that circumstances, following the decision of this Tribunal in the case of ***Neo Group Services India Pvt. Ltd. (supra),*** I hold that the refund claims filed by the appellant are in time. In these circumstances, I do not find any merits in the impugned orders, the same are set-aside.

9. In result, the appeals are allowed with consequential relief, if any.

(Dictated & pronounced in the Court)

(Ashok Jindal)
Member (Judicial)

G.Y.