CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

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REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 60104 Of 2021

[Arising out of OIA-APPEAL-PKL-COMMR-52-2020-21 dated 02.11.2020 passed by the Commissioner (Appeals) of Central Excise and Service Tax-PANCHKULA]

M/s Lekh Raj Narinder Kumar : Appellant (s)
AMBALA JIND ROAD KAITHAL
KAITHAL, HARYANA, 136027

Vs

CCE & ST- Panchkula : Respondent (s)
SCO 407-408, SECTOR-8
,Panchkula HARYANA, 134109

With

Service Tax Appeal No. 60105-60108 Of 2021

[Arising out of OIA-APPEAL-PKL-COMMR-52-2020-21 dated 02.11.2020 passed by the Commissioner (Appeals) of Central Excise and Service Tax-PANCHKULA]

M/s Lekh Raj Narinder Kumar : Appellant (s)
AMBALA JIND ROAD KAITHAL
KAITHAL, HARYANA, 136027

Vs

CCE & ST- Panchkula : Respondent (s)
SCO 407-408, SECTOR-8
,Panchkula HARYANA, 134109

APPEARANCE:
Shri Anubhav Goel, CA and Ms. Preeti Goel, Advocate for the Appellant
Shri Vijay Gupta, Authorised Representative for the Respondent

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

FINAL ORDER No. 60851-60855/2021

Date of Hearing:14.06.2021

Date of Decision:14.06.2021
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Per : Mr. Ashok Jindal

The appellant are in appeals against the impugned order wherein the refund claim of Rs. 9,61,121/- and interest on delayed refund have been rejected by the authorities below.

2. The facts of the case are that the appellant is an exporter of goods i. e. rice. During the course of export of goods, they availed various services namely Transport & Port services and paid service tax thereon. In terms of Notification No. 41/2007-ST dated 06.10.2007, the appellant filed seven refund claims for the various periods during 2007 to 2010. The said refund claims were rejected on various grounds and the matter travelled up to this Tribunal and this Tribunal vide Final Order No. 60822-60824/2019 dated 16.10.2019 had allowed the refund claim to the appellant alongwith consequential relief. In consequent to the order of this Tribunal, the appellant filed a letter claiming that the refund Instead of sanctioning the refund to the appellant, the Respondent issued two show cause notices dated 30.01.2020 and 23.04.2020 for entertaining the refund claim. Thereafter, the part of the refund claim was sanctioned and a refund claim of Rs. 9,61,121/- was rejected. The appellant also claim interest on the delayed refund, the same was also denied to the appellant. Against the order of rejection of the refund claim and denial of interest on delayed refund, the appellant is before me.

3. The Ld. Consultant appearing on behalf of the appellant submits that in this case this Tribunal has already sanctioned the refund claim to the appellant of the entire amount refund claimed by them by through various refund claims. Instead of complying the order of this Tribunal, the Revenue issued two show cause notices to re-adjudicate the matter which is in gross violation legal provisions and amounts of

contempt of this Tribunal, therefore the impugned order rejecting part refund and denial of interest is to be set asideas instead of complying of the order of this Tribunal, the department dared to issue show cause notice to the appellant which is not permissible in law.

4. He further submitted that the refund of Rs. 9,61,129/- was rejected on flimsy ground which has already been considered by this Tribunal vide its order dated 16.10.2019, therefore, the impugned order is to be set-aside and the interest on delayed refund is to be sanctioned.

5. On the other hand, the Ld. AR opposed the appeals filed by the appellant who submits that only one order has been passed, therefore, the appellant was not required to file five appeals. Therefore, four appeals filed by the appellant have become infructuous, therefore, the same are to be dismissed as infructuous.

6. He further submits that there is no prayer by the appellant in prayer clause to grant interest on delayed refund, therefore, the interest is not payable to them.

7. With regard to the merits of the case, he supported the impugned order and submits that the authorities below have rightly rejected the refund claims of Rs. 9,61,121/-. Therefore, he prayed that the appeal is to be dismissed.

8. Heard the parties and considered the submissions.

9. On careful consideration of submission made by both sides, I find that initially the appellant had filed seven refund claims but were decided by a common order, therefore the appellant has filed five appeals correctly and there is no force in the argument of the ld. AR Further, in grounds of the appellant has claimed interest on delayed

refund, therefore the objection regarding no prayer for have no force, hence turned down.

10. Further, I have gone through the order passed by this Tribunal in the earlier round of litigation on 16.10.2019 and has discussed each and every aspect of the case and passed the order wherein the orders of rejection of refund claims were set-aside and the appeals were allowed with consequential relief. After the order of this Tribunal dated 16.10.2019, the authorities below were having the two options i. e. either to challenge the order of this Tribunal before higher forum or to comply the direction of this Tribunal passed on 16.10.2019. As the order dated 16.10.2019 has not been challenged by the respondents, the only option left with the respondent to sanction the refund claim *suo-motto* and to release the same, no refund claim was required to be filed by the appellant again. Instead of sanctioning the refund claim to the appellant, the adjudicating authority has issued two show cause notices illegally to the appellant on 30.01.2020 and 23.04.2020. Therefore, the show cause notices issued to the appellant are illegal and violation of the legal provisions. The act of the issuance of show cause notice to the appellant shows that arrogance of the departmental officers and they has no faith in judiciary. The said act of the departmental officer cannot be appreciated. Further, these type of actions put burden on the Govt. Of India monetarily and otherwise. Further, the department looses the faith of the society. Accordingly, the impugned proceedings are concluded against the appellant qua rejection of refund claim of Rs, 9,61,121/- and denial of interest are set-aside.

11. In these terms, the refund claim of Rs. 9,61,121/- is allowed. As the appellant has filed refund claims during the period 2007 to 2010

and is entitled for the said refund claims, the appellant is also entitled interest on delayed refund after 3 months from the date filing the refund claim till its realization in terms of the decision of the Hon'ble Apex Court in the case of Ranbaxy Laboratories Ltd. Vs. Union of India and Ors. 2011 (273) ELT 3 (S.C.).

12. In view of above discussion, the appeals are allowed with consequential relief, if any.

13. The adjudicating authority is directed to comply the direction of this Tribunal vide order dated 16.10.2019 within 30 days of receipt of this order and to comply this order also.

14. The copy of the order be sent to Chief Commissioner of CGST, Sector 17, Chandigarh and the Member, Legal CBIC, New Delhi for appropriate directions.

(Dictated & pronounced in the Court)

(Ashok Jindal)
MEMBER (JUDICIAL)

G.Y.