CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 61111 of 2018

[Arising out of Order-in-Appeal No. 386/ST/CGST-APPEAL-GURUGRAM/SG/2017 dated 15.03.2018 passed by the Commissioner GST (Appeals), Gurugram]

Commissioner of Central Goods & Service Tax, Gurgaon I ......**Appellant**
Plot No. 36-37, Sector 32
Gurugram, Haryana 122001

VERSUS

M/s Fox International Channels Us Inc ......**Respondent**
Uppal Business Centre, Plot No. 77
Institutional Area, Sector 32,
Gurugram, Haryana 122001

APPEARANCE:

Shri Ram Niwas and Shri Yashpal Singh, Authorized Representatives for the Appellant
Ms. Krati Singh, Advocate for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 61481/2025

DATE OF HEARING:24.09.2025
DATE OF DECISION:08.10.2025

S.S.GARG:

The present appeal is directed against the impugned order dated 15.03.2018 passed by Commissioner (Appeals), whereby the Commissioner (Appeals) has rejected the appeal filed by the Department and upheld the Order-in-Original.

2. Briefly the facts of the present case are that the respondent is engaged in providing broadcasting services to customers in India and was registered with the Service Tax department and they have paid excess service tax amounting to Rs. 61,91,667/-during the period October 2015 to March 2016; therefore, the respondent filed an application on 22.09.2016 seeking refund of excess service tax paid amounting to Rs. 61,91,667/ and after due process, adjudicating authority sanctioned the refund to the respondent vide Order-in-Original dated 31.03.2017 and commissioner CGST Gurugram passed review order directing the department to file the appeal against the Order-in-Original dated 26.05.2017. The learned Commissioner (Appeals) rejected the appeal filed by the Department on the ground that review order was barred by limitation in terms of Section 84(2) of the Act. Hence, the present appeal filed by the Revenue.

3. Heard both the parties and perused the material on record.

4. Learned authorized representative for the appellant submits that the impugned order rejected the appeal of the Department by the Commissioner (Appeals) is not sustainable in law as the same has been passed without properly appreciating the facts and the law. He further submits that the Commissioner (Appeals) has committed an error in taking the date of receipt of Order-in-Original in this Commissinerate as 10.04.2017 which was the date when the said Order-in-Original was marked to Superintendent of the of the erstwhile Service Tax Commissionerate which has ceased to exist

and when GST Gurugram Commissionerate was not even in existence. He further submits that the Commissioner (Appeals) failed to notice the fact that the said order was received in GST Gurugram Commissionerate on 10.07.2017 and the period of review should be calculated by taking 10.07.2017 as the date of communication of order in the present Commissionerate.

5. On the other hand, learned counsel appearing on behalf of the respondent submits that Order-in-Appeal has rightly held that the review order dated 09.10.2017 is time barred in terms of Section 84(2) of the Act. She further submits that as per the Section 84(2) of the Act review order shall be pronounced within a period of three months from the date of the communication of the order. She also submits that the department has not disputed that as per dispatch register of the division passing the Order-in-Original dated 31.03.2017, the Order was dispatched on the same day to the Assistant Commissioner (Review), Service Tax Commissionerate, Delhi-IV, Gurgaon and Superintendent, Division Gurgaon. She further submits that it is also not disputed that Order-in-Original dated 31.03.2017 was marked to the Superintendent (Review) on 10.04.2017 for review purposes. She further submits that in view of this undisputed facts, the review order ought to be issued till 10.07.2017 after receiving the Order-in-Original dated 31.03.2017 on 10.04.2017, in terms of Section 84 of the Act. She further submits that the reasons given by the department that service tax Commissionerate ceased to exist w.e.f. 22.06.2017 should not be a ground for not passing the review order.

5.2 She further submits that review order passed on 09.10.2017 is barred by limitation and the learned Commissioner has rightly held so. In support of her submissions, she relied upon the decision in the case of CCE, Pune v. Pearl Engineering Polymers Ltd., 2006 (199) E.L.T. 861 (Tri.-Mumbai), wherein the Tribunal dismissed the appeal of the department by relying on GTC Industries Ltd. v. Collector, 1997 (94) E.L.T. 9 (SC) wherein it was held that endorsement of the order to the correct authority is sufficient to satisfy the requirement of communicating the order. Accordingly, the limitation period to issue the review order shall commence from the date of communication of Order-in-Original dated 31.03.2017 to the reviewing authority i.e., from 10.04.2017.

6. After considering the submissions of both the parties and perusal of the material on record, we find that the Original authority passed the order on 31.03.2017 and the said order was dispatched on the same day to Assistant Commissioner (Review) service tax Commissionerate, Gurgaon and was marked to the superintendent (review) on 10.04.2017 for review purposes, therefore, in view of the law laid down in the case of CCE, Pune v. Pearl Engineering Polymers Ltd. cited (Supra), the date for filing the appeal before the Commissioner will start from 10.04.2017 and review order is required to be passed within period of three months from the date of communication of this order which comes to 10.07.2017, whereas the review order was passed on 09.10.2017 which is beyond the period prescribed under Section 84 of the Act.

7. In view of these facts, we do not find any infirmity in the impugned order passed by the commissioner (Appeals) dismissing the appeal of the department; we uphold the same by dismissing the present appeal filed by the department.

(Order pronounced in the open court on 08.10.2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Kailash