CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHANDIGARH</u>

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 53224 of 2015

[Arising out of Order-in-Appeal No. JNK/EXCUS-000/APP-144 to 147/15-16 dated 16.06.2015 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

M/s Gharda Chemicals Limited ......**Appellant**
Industrial Growth Centre, Phase-ii
Sidco, Samba
Jammu & Kashmir

VERSUS

Commissioner of Central Excise, Chandigarh ......**Respondent**
OB-22, Rail Head Complex,
Jammu & Kashmir

<u>APPEARANCE:</u>

Shri Gautam Chugh, Advocate for the Appellant

Shri Goverdhan Dass Bansal, Authorized Representative for the Respondent

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

FINAL ORDER NO. 60040/2026

DATE OF HEARING:13.01.2026
DATE OF DECISION:13.01.2026

<u>S.S.GARG:</u>

The present appeal is directed against the impugned order dated 16.06.2015 passed by the Commissioner (Appeals), whereby, the learned Commissioner (Appeals) has rejected the appeal of the appellant on limitation without going into the merits of the case.

2. Briefly the facts of the present case are that the appellants are engaged in the manufacture of Pesticides & Insecticides, Fungicides and Weedicides falling under Chapter 38089199, 38089910 & 38089340 of the 1st Schedule to the Central Excise Tariff Act, 1985. The appellants are availing benefit of area based exemption Notification No. 56/2002-CE dated 14.11.2002, as amended the notification nos. 19/2008-CE dated 27.03.2008 and 34/2008-CE dated 10.06.2008 which restricted the admissibility of refund under the notification in terms of the value addition norms. The appellants have filed refund claims by way of self credit of duty paid through PLA, for the period December, 2013 to March, 2014. After following the due process, the adjudicating authority has rejected the refund amount claimed by the appellants over & above the value addition norms fixed in terms of the amending notifications. Aggrieved by the said order, the appellant filed appeal before the Commissioner (appeals) who rejected the same on limitation.

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

4. Learned counsel for the appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the fact and the law. He further submits that the Order-in-Original dated 10.10.2014 was amended by was of Corrigendum dated 13.13.2014 and that the limitation for filing the appeal would start from the date of issue of Corrigendum, the delay if at all, was within the condonable power of the appellate

Commissioner, who arbitrarily rejected the appeal in utter disregard to the judicial precedents on the subject.

4.2 He further submits that it is a settled law that the limitation has to be calculated from the date of service of corrigendum as the corrigendum is part of the order and limitation has to be reckoned from the date of issue of Corrigendum. He further submits that this issue has been considered by various High Courts and in support of his submissions, he relied upon the decision ***of Jharkhand High court in the case of Fasttrack Tour and Travels Vs. Union of India reported in 2013 (295) ELT 36 (Jharkhand),*** wherein, the Hon'ble High Court has ordained in unequivocal terms that the period of limitation should be counted from the date of service of the corrigendum upon the petitioner. He also relied upon the decision of the Bombay High Court in the case of ***M/s Arihan Telecommunications vs. Union of India reported in 2017 (348) ELT 214 (Bom.),*** wherein, the Bombay High Court has also concluded that the limitation is to be counted from the date of issuance of corrigendum and the judgement of the High Court has been followed by the Tribunal in the case of ***ROPLAS (INDIA) LTD. Versus COLLECTOR OF CENTRAL EXCISE & CUSTOMS, PUNE reported in 2002 (146) E.L.T. 186 (Tri. - Mumbai).***

5. On the other hand, learned Authorized Representative for the Revenue reiterated the findings of the impugned order.

6. After considering the submissions of both the parties and perusal of the material on record, we find that the Order-in-Original

dated 10.10.2014 was in fact amended by way of corrigendum dated 13.12.2014 and thereafter, the present appeal was filed on 15.01.2015 which is within the period of limitation as prescribed under Section 35 of the Central Excise Act. Further, we find that it is a settled law that the limitation for filing the appeal would be calculated from the date of service of corrigendum as the corrigendum is a part of the order and the limitation has to be reckoned from the date of issue of corrigendum; the identical issue was considered by ***Jharkhand High court in the case of Fasttrack Tour and Travels Vs. Union of India and M/s Arihan Telecommunications, Bombay High Court (cited supra),*** wherein, it has been consistently held that the limitation is to be counted from the date of issuance of the corrigendum and if we count the period from the date of corrigendum, than the appeal filed before the Commissioner (Appeals) was within the stipulated time as prescribed in section 35 of the Central Excise Act and there was no need to file the application seeking condonation of delay before the learned Commissioner (Appeals).

7. In view of law laid down in the above stated judgments, we are of the considered view that the impugned order dismissing the appeal of the appellant on limitation is not sustainable in law and therefore, we set aside the impugned order and remand the matter back to the learned Commissioner (Appeals) with a direction to decide the matter on merits after affording an opportunity of hearing to the appellant and thereafter, pass a reasoned order in accordance with law within the period of three months from the date of receipt

of the certified copy of this order. Accordingly, the appeal is disposed of by way of remand.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Kailash