

**Customs, Excise & Service Tax Appellate Tribunal**  
SCO 147-148, SECTOR-17-C, CHANDIGARH-160017

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Appeal No. ST/60689/2018

(Arising out of OIA-LUD-EXCUS-001-APP-319-18 DATED 21/02/2018 passed by the Commissioner (Appeals) of Central Excise and Service Tax-LUDHIANA)

M/s Lotus Infrabuild Limited : Appellant (s)

Vs

CCE & ST- Ludhiana : Respondent (s)

**Represented by:**

For Appellant (s) : Shri Sanjay Mahlotra, CA

For Respondent (s): Shri Tarun Kumar, AR

**CORAM :**

**Mr. Ashok Jindal, Hon'ble Member (Judicial)**

Date of Hearing/Decision: 13.12.2018

**ORDER No. 63579 / 2018**

**Per : Mr. Ashok Jindal**

The appellant is in appeal against the impugned order wherein the refund claim has been rejected as time barred.

2. The facts of the case are that the appellant paid the service tax on 30.03.2014 and refund claim of excess service tax paid by them was filed on 31.03.2014 and the same was rejected on the ground that in terms of Section 11 B of the Central Excise Act, 1944 the refund claim has been filed beyond the prescribed period of one year from the date of payment. Against the said order, the appellant is before me.

3. Heard the parties.

4. Considering the fact that the refund claim was required to be filed by the appellant on 29.03.2014 and on 29.03.2014 & 30.04.2014 being

Saturday and Sunday, the last date of filing the refund claim works out to 31.03.2014 and refund claim filed by the appellant on 31.03.2014. Therefore, I hold that in terms of Section 11B of the Central Excise Act, 1944 refund claim filed by the appellant is within time.

5. As the adjudicating authority has not considered the merits of the refund claim but the same was rejected on the ground of limitation. Therefore, the matter is remanded back to the adjudicating authority to consider afresh the merit of the case and thereafter to entertain the refund claim.

6. In result, the appeal is disposed of by way of remand.

*(Dictated & pronounced in the Court)*

**(Ashok Jindal)**  
Member (Judicial)

G.Y.