Customs, Excise & Service Tax Appellate Tribunal

SCO 147-148, SECTOR-17-C, CHANDIGARH-160017

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Appeal No. E/62000/2018

(Arising out of OIA-LUD-EXCUS-001-APP-1707-18 dated 12/09/2018 passed by the Commissioner (Appeals) of Central Excise-LUDHIANA)

Cheema Spintex Ltd. : Appellant (s)

Vs

CCE & ST- Ludhiana : Respondent (s)

Represented by:
For Appellant (s) : Shri Vikrant Kackaria, Advocate
For Respondent (s): Shri G. M. Sharma, AR

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

Date of Hearing/Decision: 07.02.2019

ORDER No. A/60078/2019

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 some investigation was conducted at the end of the appellant and the appellant was forced to make certain pre-deposit, thereafter, the appellant filed refund claim of the amount deposited during the course of investigation, the said refund claim was sanctioned, but adjusted against the some other demands. Later on, the other demands were also set-aside instead of giving consequential refund to the appellant, the appellant did not filed any refund claim. The said issue travelled up to this Tribunal and the matter was remanded back. Thereafter, as the appellant was entitled for the said refund which was already sanctioned to the appellant. The appellant was forced to file
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refund claim in the year 2015. The said refund claim was sanctioned by the adjudicating authority, but, on appeal filed by the Revenue, the refund claim was rejected as time barred. Against the said order, the appellant is before me.

3. Heard the parties.

4. On going through the arguments advanced by both sides, I find that the fact of the case are not in dispute that initially the appellant paid some amount during the course of investigation and filed refund claim thereof which was sanctioned to the appellant, but was adjusted against some other demands. The said demands were also set-aside in the year 2009 itself. Therefore, the department was duty bound to refund the amount which has already been sanctioned to the appellant and adjusted against the demands which have been set-aside in the year 2009. Instead of doing so, the appellant was forced to file refund claim again and it was held that the refund claim filed by the appellant is time barred. The observation of the Ld. Commissioner (Appeals) are misconceived, in fact, the appellant was entitled for refund claim in the year 2009 itself. Therefore, the Ld. Commissioner (Appeals) has not considered the facts of the case in true respect. In these circumstances, I do not find any merit in the impugned order. Therefore, the impugned order is set-aside and the appeal is allowed with consequential relief, if any.

(Dictated & pronounced in the Court)

(Ashok Jindal)
Member (Judicial)

G.Y.