CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Appeal No. E/60119/2019 -[SM]

(Arising out of Order-in-Appeal No. 01/CE/GGN/CGST-Appeal-Gurugram/SG/2018-19 dated 16.04.2018 passed by the Commissioner (Appeals), Gurugram)

Bipin Maheshbhai Soni ......**Appellant**
(Plot No. 9, Ramvadi Area,
Bhachau Kutch, Gujarat 370140)

VERSUS

Commissioner of C.E., Gurgaon-I ......**Respondent**
(Plot No. 36-37, Sector 32, Near Medanta Hospital,
Gurgaon, Haryana 122001)

APPEARANCE:

None for the Appellant

Mr. Vijay Gupta, Authorised Representative for the Respondent

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

FINAL ORDER NO. 60601/2019

DATE OF HEARING: 29.05.2019
DATE OF DECISION: 29.05.2019

PER ASHOK JINDAL:

The appellant has filed this appeal against the impugned order wherein the refund claim has been held time barred.

2. The facts of the case are that the appellant has filed the refund claim of central excise duty paid on automatic transmission cars made for the physically handicapped persons in terms of Notification No.12/2012-CE dt. 17.03.2012. As per the said notification, the appellant was required to pay duty first and after obtaining the necessary certificate from the Ministry of Heavy Industries, has to file the refund claim of excess duty paid. The refund claim was rejected on the ground that the appellant has filed the refund claim after one

year from the date of payment of duty. Therefore, the refund claim was rejected. Against the said order, the appellant is before me.

3. The appellant filed a letter stating that the appellant is a resident of the state of Gujarat and handicapped, therefore not able to attend the proceedings. Hence, the appeal be decided on the basis of available records.

4. On the other hand, the learned A.R. supports the impugned order.

5. Considering the papers placed before me, I find that in this case, as per the Notification, the appellant is required to file the refund claim after obtaining the certificate from Ministry of Heavy Industries to the effect that the vehicle is made for handicapped person. Admittedly, the refund claim has been filed within one year of the issuance of the certificate from the Ministry of Heavy Industries. Therefore, the period of limitation is required to be started from the date of issuance of the certificate from the Ministry of Heavy Industries and the appellant has filed claim of refund within one year from the said date. In that circumstance, I hold that the refund claim filed by the appellant is within time. Therefore, the same cannot be held as barred by limitation. In view of this, I direct the adjudicating authority to sanction the refund claim to the appellant within 30 days of receipt of this order.

6. The appeal is disposed off in the above terms.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMEBR (JUDICIAL)

RA_Saifi