CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

REGIONAL BENCH AT CHANDIGARH
E-HEARING
SINGLE MEMBER BENCH

Service Tax Appeal No. 60149/2020
(Arising out OIA No.217/ST/CGST-APPEAL-GURUGRAM/sg/2019-20/4832 dt.28.2.2020 passed by the Commissioner (Appeals),CGST,5th Floor, Mudit Square, Plot No.24, Sector 32, Gurguram, Haryana**)**

Periscope Printing & Packaging India P.Ltd. **Appellant**
(Unit-805, A, B. C and Unit-802 A, B, Pinnacle Tower,
Shooting Range Road, Surajkund, Faridabad-121001)

Vs.
Commissioner of CGST, Gurugram **Respondent**
(Plot No.36 & 37, Sector 32, Near Medanta Hospital, Gurugram)

Present for the Appellant: Ms. Nidhi Dhamija,CA
Present for the Respondent:Shri Rajeev Gupta &Ms.Swati Chopra, ARs

Date of hearing: 07.04.2021
Date of decision:07.04.2021

FINAL ORDER NO. 60804/2021

Per:Ashok Jindal

The appellant is in appeal against the impugned order wherein the refund claim of Rs.6,24,440/- has been denied on the ground that on 30.6.2017while shifting to GST regime, they have not debited the refund amount from the Cenvat Credit account in terms of Notification No.27/2012-CE (NT) dated 18.6.2012.

2. The facts of the case are that the appellant has filed refund of Rs.6,24,440/- on 27.3.2018 for the quarter ending June, 2017 of the refund lying unutilized in their Cevant Credit Account of input/input service used for exportation of service in terms of Rule 5 of Cenvat Credit Rules, 2004. In terms of Notification No.27/2012-CE (NT) dated 18.6.2012, the appellant was required

to debit the amount of refund claimed in Cenvat Credit account at the time of filing refund claim. The appellant has complied with the said notification but both the authorities below held that on 1.7.2017 on introduction of GST regime, they were required to reverse the deemed credit to be claimed as refund under Rule 5 of Cenvat Credit Rules, 2004 and they have not done so on the said date, therefore, the refund claim was rejected. Hence, this appeal.

3. Heard both sides and perused the record.

4. The facts of the case are not in dispute that at the time of filing refund claim, the appellant has debited the amount of refund claim in Cenvat Credit account. This is evident from para 3 & 4 of the Order-in-Original.

5. Now the question arose that in terms of Notification No.27/2012-CE (NT) dated 18.6.2012, whether the appellant was required to debit the amount to be claimed as refund claimed on 30.6.2017 or not?

6. The provisions of Notification No.27/2012-CE (NT) dated 18.6.2012 are very much clear that the assessee is required to debit the amount of refund claim in Cenvat credit account at the time of filing of refund claim. Therefore, the observations made by both the authorities below are contrary to Notification No.27/2012-CE (NT) dated 18.6.2012. As the appellant has complied with the conditions of Notification No.27/2012-CE (NT) dated 18.6.2012 is evident from the facts of the case. In that circumstance, I do not find any merit in the impugned order rejecting refund claim filed by

the appellant, therefore, the same is set aside and the appeal is allowed with consequential relief, if any.

(dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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