IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

ST/41807/2016-SM

[Arising out of Order-in-Appeal No.78/2016(STA-II), dated 14.06.2016 passed by the Commissioner of Service Tax (Appeals-II), Chennai]

M/s. BOTCODE WEB INTEGRATION SOLUTIONS PVT. LTD. — APPELLANT

Versus

COMMISSIONER OF SERVICE TAX – II, CHENNAI — RESPONDENT

Appearance:

For the Appellant	Shri A.S. Hari Hara Kumar, Adv.	Adv.
For the Respondent	Shri L. Paneerselvan, AC (AR)	AC (AR)

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)

Date of hearing/decision **09-05-2017**

FINAL ORDER NO. 40697/2017

Per Archana Wadhwa:

After hearing both sides, I find that the original adjudicating authority rejected the appellant's claim for refund of Cenvat Credit in terms of Rule 5 of Cenvat Credit Rules on three different grounds including the ground of limitation.

2. On an appeal by Advocate before Commissioner (Appeals), he granted relief on the other grounds except on the ground of limitation. He observed that though the appellant has challenged the impugned order but the rejection of claim on the issue of time bar was not contested by appellant. Accordingly, he observed that the impugned order rejecting the refund claim on the ground of limitation of time does not require any interference.

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3. Learned Advocate appearing for the appellant is unable to draw my attention to the grounds of appeal raised before Commissioner (Appeals) challenging the rejection of refund claim on the issue of time bar. Even the appeal filed before the Tribunal nowhere states that the said issue was actually contested before Commissioner (Appeals). I find that the refund on the said amount is only to the extent of Rs.96,333/-. Admittedly, in the absence of any ground or any challenge to the time bar issue, the appellate authority could not have decided the said issue and as such, his order cannot be faulted upon.

4. In view of the foregoing, I find no reason to interfere in the impugned order of Commissioner (Appeals). Accordingly, appeal is rejected.

(Dictated and pronounced in open court)

15/5/17

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

ksr
12-05-2017

Customs, Excise & Service Tax Appellate Tribunal

सत्यमेव जयते

प्रमाणित प्रति/Certified True Copy

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