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

C/41924/2016

[Arising out of Order-in-Appeal C.Cus II No.739.2016, dated 26.07.2016 passed by the Commissioner of Customs (Appeals-II), Chennai]

M/s. CMS INFOSYSTEMS LTD. APPELLANT

Versus

COMMISSIONER OF CUSTOMS (SEA) CHENNAI - II RESPONDENT

Appearance:

For the Appellant Shri S. Muthuvenkataraman, Adv.
For the Respondent Shri K.P. Muralidharan, AC (AR)

CORAM:

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

Date of hearing/decision **17-05-2017**

FINAL ORDER NO. 40710/2017

Per Archana Wadhwa:

After hearing both sides, I find that the appellants approached their jurisdictional authorities for refund of SAD in terms of Notification No.102/2007. The said refund claim was rejected and an appeal was filed there against before Commissioner (Appeals). The appellate authority allowed the appeal and directed the lower authorities to grant the refund of SAD. It is seen that the Assistant Commissioner of Customs vide his Order dated 18.04.2016 sanctioned the refund claim.

2. In as much as, while sanctioning the refund claim, the Assistant Commissioner had not granted interest, the appellant filed an appeal against the said order of the Assistant Commissioner for their

Customs, Excise & Service Tax Appellate Tribunal claim of interest. The Commissioner (Appeals) observed that the appellant had written a separate letter dated 18.12.2015 to the Commissioner of Customs (Refund) for grant of interest and which matter has not been adjudicated by the original adjudicating authority, the appeal filed by the appellant before him is premature.

3. After hearing the learned advocate, I find that admittedly the interest issue was not the subject-matter of the order of the original adjudicating authority, which granted the refund of SAD. The appellants have claimed interest vide a separate letter dated 18.12.2015, which has not been decided till date. As such, I fully agree with the Commissioner (Appeals) that the appeal filed before him is premature. In the circumstances, I reject the present appeal and direct the original adjudicating authority to decide upon the appellant's claim of interest in respect of SAD. In as much as, the matter is quite old, I expect the authorities to do the needful within a period of three months from the date of receipt of this order.

(Dictated and pronounced in open court)

17/5/17

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

ksr
17-05-2017

Customs, Excise & Service Tax Appellate Tribunal

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