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

**ST/40763/2016-SM**

[Arising out of Order-in-Appeal No.07/2016 (CXA-II), dated 12.01.2016 passed by the Commissioner of Central Excise (Appeals-II), Chennai ]

M/s.NATIONAL OXYGEN LTD. APPELLANT

Versus

COMMISSIONER OF CENTRAL EXCISE, PUDUCHERRY RESPONDENT

Appearance:

For the Appellant Shri K. Ramesh, Adv.
For the Respondent Shri S. Govindarajan, AC (AR)

**CORAM:**

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

Date of hearing/decision **19-05-2017**

FINAL ORDER NO. 40719/2017

**Per Archana Wadhwa:**

After hearing both sides, I find that vide his impugned order dated 12.01.2016, Commissioner (Appeals) rejected the appeal on time bar.

2. The appellant's grievance is that they were heard by Commissioner on merits and the ~~decision~~ issue of time bar was never brought to their notice. In any case, the appellants have contended that the impugned order was received by them on 28.09.2015 and the appeal was filed well within the period of limitation. However, the appellate authority relied upon the information received from the lower authorities. As regards the dispatch of the impugned order and receipt

of the same/ or such information was never disclosed to the appellants for their comments.

3. In view of the foregoing, I deem it fit to set aside the impugned order and remand the matter Commissioner (Appeals) for fresh decision on limitation. Needless to say that the appellants would be given an opportunity to putforth their case.

(Operative part pronounced in open court on **19.05.2017**)

19/5/17

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

**ksr**
19-05-2017

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति/Certified True Copy

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