

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

Appeal No. C/40876/2013

(Arising out of Order-in-Appeal C. Cus. No.26/2013 dated 15.2.2013 passed by the Commissioner of Customs (Appeals), Chennai)

Commissioner of Customs, Chennai

Appellant

Vs.

M/s. AKS Timber & Ply

Respondent

Appearance

Shri B. Balamurugan, AC (AR) for the Appellant
None for the Respondent

CORAM

Hon'ble Shri D.N. Panda, Judicial Member

Date of Hearing / Decision: **20.02.2017**

Final Order No. 40306/2017

When the record of the department has come for perusal, it is argued by learned AR that the date of the impugned order was 15.2.2010. That was issued on 26.2.2010 and reached the Review Cell on 4.3.2010. Review order was passed on 3.6.2010.

2. Bare perusal of sub-section (3) of section 129D of the Customs Act, 1962, exhibits that the date on which public authority signs an order that becomes the date of the



order. The limitation prescribed by sub-section (3) of section 129D of the said Act deals with two situations. The first situation is the communication of decision and the second situation is the date of the order. The present case being the order that was subject to review, such an order ought to have been reviewed within three months from the date of the order. Therefore, limitation began from 2.2.2010 when the public authority signed the order. Review decision having been taken on 24.6.2010, the order suffered from legal infirmity being barred by limitation. Accordingly, Revenue's appeal dismissed by learned Commissioner (Appeals) is upheld. To reach to the above conclusion, the principles laid down by the Hon'ble Supreme Court in Collector of Central Excise Vs. M.M. Rubber & Co. as reported in 1991 (55) ELT 289 (SC) is applied.

3. In the result, Revenue's appeal is dismissed.

(Dictated and pronounced in open court)

[Signature] 20/2/2017

(D.N. Panda)
Judicial Member

Rex



प्रमाणित प्रती/Certified True Copy

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