IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order: 17.4.2017

Appeal No. E/2554/2010-SM

(Arising out of Order-in-Appeal No. IND-I/085/2010 dated 30.3.2010 passed by the Commissioner (Appeals), Customs, Central Excise, & Service Tax, Indore)

M/s Suraj Impex (India) Pvt. Ltd. Appellant

Vs.

CCE, Indore Respondent

Appearance

Shri Ashutosh Upadhyay, Advocate - for the appellant

Shri K. Poddar, D.R. - for the respondent

CORAM: **Hon'ble Mr. Ashok K. Arya, Member (Technical)**

Final Order No. 52961/2017

Per Ashok K. Arya :

The appellant M/s Suraj Impex (India) Pvt. Ltd. is in appeal against the Order-in-Appeal No. 85/2010 dated 30th March, 2010 whereunder the rejection of refund claims has been sustained.

2. The brief facts are that:

(i) The appellant filed refund claim for service tax of Rs.3,21,964/- on foreign agents' commission and for Rs.12,764/- in case of service tax paid on bank charges in relation to exports made by them during the period 1.4.2008 to 30.9.2008.

(ii) The appellant claims that they paid service tax of Rs.3,21,964/- on 28.2.2009 and they filed refund claim for the same on 30th March, 2009. Therefore, it is within the time limit of 60 days.

(iii) In case of refund of service tax of Rs.12,764/- for the tax paid on bank charges, the appellant is not insisting on sanction of this claim.

(iv) These claims have been mainly rejected by the Revenue on the ground that they are time barred. The appellant pleads that their claim is not time barred saying that the time period of six months is to be computed from the date of individual exports made. In support, the appellant relies on following case laws:-

(a) ***Addi Industries Ltd. Vs. CCE*** – 2014 (36) STR 65 (Tri.-Del.)

(b) ***CCE, Pune Vs. Chandrashekhar Exports*** – 2016-TIOL-2448-CESTAT- MUM.

3. Both sides have been heard represented by ld. Counsels, Shri Ashutosh Upadhyay for the appellant and Shri K. Poddar for Revenue.

4. Notification No. 49/2007-ST, dated 6.10.2007 under which the appellant is claiming refund mentions in clause 2(e) that "*the claim*

for refund shall be filed on a quarterly basis, within 60 days from the end of the relevant quarter during which the said goods have been exported."

5. In the present case, the appellant has filed the refund claim after expiry of the period of 60 days. When it is so then it is the contravention of the provisions of clause 2(e) of the Notification No. 49/2007-ST dated 6.10.2007. Further the case laws quoted by the appellant are distinguishable on the facts and circumstances as the present case pertains to the period of March 2008 to Sept., 2008, when the time limit for filing refund claim was 60 days only.

6. In the result, the impugned order sustains and the Appeal is rejected as without merits.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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