IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. IV

Service Tax Appeal No. 50566 of 2017

[Arising out of Order-in-Appeal No BHO-EXCUS-001-APP-499-16-17 dated 15.12.2016 passed by the Asstt. Commissioner (Review), Customs & Central Excise & Service Tax, Indore]

Commissioner of Customs **Appellants**
Indore

Vs.

M/s. Gold Filament P Ltd. **Respondent**

Appearance:
Shri K Poddar, AR for the Appellants
None for the Respondent

CORAM:

Hon'ble Shri Ashok Jindal, Member (Judicial)

Date of Hearing /decision: 1.09.2017

FINAL ORDER NO. 56824 /2017

Per Ashok Jindal:

The present appeal has been filed against the impugned order where the learned Commissioner (Appeals) allowed the refund claim holding it was filed within time.

2. Brief facts of the case are that the respondent filed a consolidated refund claim on 29.5.2014 for the period 1.4.2013 to 31.12.2013. As the respondent was required to file refund claim on

quarterly basis, therefore deficiency memo was issued to the respondent which has been responded by the respondent by filing four separate claim on 05.01.2015. The adjudicating authority observed that it is time barred as the same are filed on 05.01.2015 after expiry of end of quarter. The said order was challenged by the respondent before Commissioner (Appeals) who held that initially the refund claim was filed on 29.5.2014 which was within time. Aggrieved from the said order, Revenue is before me.

3. Learned AR submits that as the respondent was required to file refund claim quarterly, and these refund claims were filed by 5.1.2015 for the period April, 2013 to March, 2014 which is beyond one year which is the time limit of filing the refund claim. Therefore, the impugned order is to be set aside.

4. None on behalf of the respondent nor is any adjournment application has been received. Therefore, the matter is taken up for final disposal after hearing the learned AR.

5. It is an admitted fact that for the period 1.4.2013 to 31.3.2014, the respondent has filed the refund claim on 29.5.2014 and the said refund claim was not rejected, but the deficiency memo was issued to the respondent to rectify the mistake, which has been rectified by the respondent. In that circumstances, it cannot be said that refund claim

has been filed beyond the period of limitation as in this case, date of filing refund claim was only 29.5.14. Therefore, I do not find any infirmity in the impugned order. The same is upheld. Appeal filed by the Revenue is dismissed.

(pronounced in the open court)

(Ashok Jindal)
Member(Judicial)

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