

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

**Customs Appeal Nos. 50259 & 50279 of 2018
Customs Stay Application Nos. 50075 & 50081 of 2018**

[Arising out of Order-in- Appeal No. 1069 / 2017 dated 18.10.2017
and 1070 / 2017 dated 23.10.2017 passed by the Commissioner of
Customs (Appeals), New Delhi]

**Commissioner of Customs (Import)
New Delhi**

Appellant

Vs.

**M/s. Nanak Electronics P Ltd.
M/s. Gurmeet Overseas**

Respondent

Appearance:

**Shri R K Majhi & Shri A K Singh, DR for the Appellants
None for the Respondent**

CORAM:

**Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)**

Date of Hearing/ Decision: 20.2.2018

FINAL ORDER NO. 50816-50817/2018

Per: Justice (Dr.) Satish Chandra:

Both the appeals have been filed by the Department against
order-in-Appeal No. 1069 / 2017 dated 18.10.2017 and 1070 / 2017
dated 23.10.2017 where the refund claim was allowed by the
Commissioner (Appeals). Being aggrieved, the department has filed
the present appeals.

2. With this background, we heard Shri R K Majhi and Shri A K Singh, learned DRs for the Revenue and nobody appeared for the respondent-assessee.

3. After hearing learned DRs for the department and perusal of material available on record, it appears that there was no time limit for submitting the SAD refund as the provisions of section 27 were not applicable in respect of refund of SAD, it not being 'customs duty' as per the ratio laid by the Hon'ble Delhi High Court in the case of *M/s. Sony India Pvt. Ltd. vs. CC, New Delhi [2014 (304) ELT 660 (Del)]*. So the Commissioner (Appeals) has allowed the refund claim by following the ratio laid down by Hon'ble Delhi High Court.

4. When it is so, we find no reason to interfere in the impugned order, which is sustained along with the mentioned therein.

5. In the result, appeals filed by the department are dismissed. Stay applications also stand disposed of.

(Dictated and pronounced in the open Court)

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

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