IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –IV

Excise Appeal No.ST/1894-1895/2012 [SM]

[Arising out of Order-in-Appeal No.17-18/ST/MRT-I/2011 dated 03.02.2012 passed by the Commissioner (Appeals), Central Excise, Meerut]

M/s.Alps Industries Ltd. ...Appellant

Vs.

C.C.E.,Meerut-I ... Respondent

Present for the Appellant : Ms. Sohini, Advocate
Present for the Respondent: Mr. H.C. Saini, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

Date of Hearing/Decision: 12/04/2018

FINAL ORDER NO. ___51617-51618__ /2018

PER: S.K. MOHANTY

Rejection of refund claim on the ground of limitation, is the subject matter of present dispute. In this case, the appellant had filed the refund applications under Notification No.17/09-ST dated 07.07.2009, in respect of the Service tax paid on input services, used for export of the goods. The refund applications were filed by the appellant after one year from the date of export. Since the applications were filed beyond the stipulated time provided under clause 2 (f) of Notification dated 07.07.2009, the same were rejected by both the authorities on the ground of limitation.

2. The ld. Advocate appearing for the appellant submits that the refund applications were not barred by limitation of time inasmuch as, for the period July to September 2009, the same were filed on 30.09.2010, which was within one year period as provided under the Notification dated 07.07.2009. Thus, she submits that rejection of refund applications by the authorities below are not proper and justified. To support such stand, the ld. Advocate has relied on the decisions of this Tribunal in the case of:

- Marsk Global Services Centres (India) vs. CCE, Pune – 2017 (7) G.S.T.L. 378 (Tri.-Mumbai), Ruchi Soya Industries Ltd. vs. CCE, Indore – 2017 (51) S.T.R. 453 (Tri-Del.) & CCE, Pune-III vs. Aam Service India Pvt. Ltd. – 2016 (42) S.T.R. 760 (Tri.-Mumbai)

3. On the other hand, the ld. DR appearing for the Revenue reiterated the findings recorded in the impugned order and further submits that since the Notification dated 07.07.2009 has specifically provided that the refund claim shall be filed within one year from the date of export of the goods, there is no ambiguity in interpreting the provisions of the said Notification and the refund claims having been filed beyond one year from the date of export, the same are barred by limitation of time.

4. Heard both sides and perused the case records.

5. The Notification No.17/09-ST dated 07.07.2009 provides that the claim for refund shall be filed within one year from the

date of exportation of the goods. In this case, it is an admitted fact on record that the refund applications were filed by the appellant beyond the stipulated period of one year i.e. date of export of the goods. Thus, rejection of refund applications by the authorities below is in conformity with the conditions laid down in the Notification dated 07.07.2009. The submissions of the appellant that the period for filing the refund applications should be considered on quarterly basis, is not supported with any statutory backing inasmuch as, the Notification dated 07.07.2009, under which the refund applications were filed, clearly provide the time for lodgement of the claim. The decisions cited by the ld. Advocate for the appellant are distinguishable from the facts of the present case, inasmuch as, in those decided cases period of limitation provided under Notification dated 07.07.2009 was not the subject matter of dispute.

6. Therefore, I do not find any merits in the appeals filed by the appellant. Accordingly, the same are dismissed.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita