CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. II

Date of hearing/decision: 30.05.2018

S. T. Appeal No. 51914 of 2017
(Arising out of order-in-appeal No. 139(ST)/2016 dated 30.08.2017 dated 04.09.2017 passed by the Commissioner of Goods & Service Tax, Central Excise & Customs (Appeals), Raipur).

M/s ABS Consultant & Contractors Appellant

Vs.

CCE, Raipur Respondent

Appearance:

Sh. Abhishek Jaju, Advocate for the appellant
Sh. H. Saini, AR for the Respondent

Coram:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)

Final Order No. 52090/2018

Per: **Archana Wadhwa**:

The issue pertains as to whether the refund claims filed by the assessee electronically and on being pointed out the relevant documents having been supplied later on, would invite the period of limitation or not.

2. Ld. Advocate Sh. Abhishek Jaju appearing for the appellant have placed on record a decision of the Delhi High Court in the case of ***CCE, Delhi-I vs. Arya Exports and Industries -2005 (192) ELT 89 (Del.)*** laying down that date of filing claim is the date on which claim was filed initially in the form not prescribed or without documents. He submits that inasmuch as their initial claim was within the period, they are entitled for refund.

3. In view of foregoing, I deem it fit to set aside the impugned order to the original adjudicating authority for examining the issue of limitation in the light of the law declared by the Hon'ble Delhi High Court in the above referred judgment.

4. The appeal is thus allowed by way of remand.

(Dictated and pronounced in the open Court).

(Archana Wadhwa)
Member (Judicial)

Pant