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

Date of Hearing/Decision: 02.11.2018

Appeal No. C/52631/2018-CUS [SM]
[Arising out of Order-in-Original No. OIA-CC-A-CUS-D-I-EXPORT-NCH-163-2018 dated 11/05/2018 passed by COMMISSIONER OF CGST & CENTRAL EXCISE-NEW DELHI (ICD ITC)]

SANS FRONTIERS Appellants

Vs.

C.C.-NEW DELHI Respondent

Appearance:
Shri Avneet Singh, Advocate for the Appellant
Shri P.R. Gupta, DR for the Respondent

CORAM:
Hon'ble Shri Anil Choudhary, Member (Judicial)

FINAL ORDER NO. 53263/2018

Per Anil Choudhary:

1. The issue involved in this appeal is whether show cause notice dated 24th August, 2015 have been rightly issued invoking the extended period of limitation.

2. The admitted fact is that the appellant- assessee is 100% EOU and they availed duty drawback on the exports effected by them during 2006-07 to 2013-14. The appellant received objection from the Department vide letter dated 12th March, 2014, regarding the inadmissibility of the drawback availed. The appellant in response, deposited the duty drawback so availed and intimated the Revenue by their letter dated 31st March, 2014. The amount of deposit made Rs. 54, 80, 710/- also included interest component of Rs. 28, 64, 768/-.

3. Subsequently, show cause notice dated 24th August 2015 have been issued invoking extended period of limitation with proposal to confirm the same demand of duty drawback along with proposal to appropriate the amount already deposited.

4. Heard the parties.

5. Having considered rival contentions I find that under the facts and circumstances the extended period of limitation is not available to the Department, as the appellant had deposited on being so pointed out, along with interest, which is an admitted fact. Accordingly, the impugned order is set aside. The appellant is entitled to consequential benefits in accordance with law. Appeal stands allowed.

(Order Dictated & pronounced in the open court)

(Anil Choudhary)
Member (Judicial)

Rekha