CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH REGIONAL BENCH AT HYDERABAD
BENCH - SM
COURT - I

Appeal(s) Involved:

ST/30050/2018-SM

(Arising out of Order-in-Appeal No. HYD-SVTAX-RRC-APP-079-17-18-APP-I dated 06/10/2017 passed by Commissioner of Customs & Central Tax (Appeals-I)Hyderabad)

Ciphercloud India Pvt Limited Appellant(s)

Versus

The Commissioner of Central Tax, Hyderabad Respondent(s)

Appearance:

Mr. Venkat Prasad, C.A. for the Appellant.

Mr. Guna Ranjan, A.R. for the Respondent.

CORAM:

HON'BLE Mr. M.V.RAVINDRAN, MEMBER (JUDICIAL)

Date of Hearing: 16/04/2018

Date of Decision: 16/04/2018

Final Order No. A/ 30429 / 2018

[Order per: M.V.RAVINDRAN.] .

This appeal is directed against order-in-appeal No. HYD-SVTAX-RRC-APP-079-17-18-APP-I dated 06/10/2017.

2. Heard both sides and perused the records.

3. On perusal of records, it transpires that the issue is regarding rejection of refund claim filed by the appellant as being hit by limitation.

4. It transpires that the appellant herein, undisputedly, being an exporter of services had claimed CENVAT credit of service tax paid on input services filed refund claim on 7th March 2016 for the services exported by him for the quarter January 2015 to March 2015. It is the case of the Revenue that since the invoices for the export of services were raised in the specific month, the time period for refund of CENVAT credit as per the provisions of Section 11B should be from the date of invoices raised for export services, accordingly the refund claims were rejected.

5. I find that the issue is no more res-integra as the Larger Bench of the Tribunal in the case of CCE & ST, Bengaluru Service Tax-I Vs Span Infotech India Pvt Ltd [2018-TIOL-516-CESTAT-Bang-LB] has settled the law wherein it is held that for the refund under Rule-5 of CENVAT Credit Rules 2004, relevant date for limitation has to be from end of the quarter in which FIRC is received. Since the issue is now settled in favour of the appellant herein, the impugned order is set aside and the appeal is allowed with consequential relief.

(Order pronounced and dictated in open court)

M.V.RAVINDRAN
MEMBER (JUDICIAL)

Neela Reddy