CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL REGIONAL BENCH AT HYDERABAD

Division Bench – Court No. – I

Service Tax Appeal No. 30414 of 2019
(Arising out of Order-in-Appeal No. HYD-SVTAX-RRC-APP-063-18-19 (APP-I) dt.17.12.2018 passed by Commissioner of Customs & Central Tax (Appeals-I), Hyderabad)

M/s R.R. Stones Pvt Ltd
18-2-120/86/5, 4th Floor, Sneha House,
Road No.3, Banjara Hills, Hyderabad – 500 034 **.....Appellant**

VERSUS

Commissioner of Central Tax Rangareddy - GST
Kendriya Shulk Bhavan, LB Stadium Road,
Basheerbagh, Hyderabad – 500 004 **.....Respondent**

Appearance
Shri B. Srinivasa Rao, Advocate for the Appellant.
Shri A. Rangadham, AR for the Respondent.

Coram: HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30346/2026

Date of Hearing: 01.04.2026
Date of Decision: 30.06.2026

[Order per: A.K. JYOTISHI]

M/s RR Stones Pvt Ltd (hereinafter referred to as appellant) are in appeal against OIA dt.17.12.2018, whereby, the Commissioner (Appeals) has upheld the order of the Original Adjudicating Authority (impugned order). The Original Authority had examined the claim of refund filed by the appellant and had sanctioned an amount of Rs.15,120/-, however, rejected an amount of Rs.17,13,519/- out of the total claim of Rs.17,28,639/-.

2. The issue, in brief, is that the appellants are engaged in manufacture and export of Potash Feldspar Powder (PFP). They filed refund claim in Form A-1 dt.19.06.2018, which was received in the office of the Refund Sanctioning Authority (RSA) on 26.06.2018. The refund was filed in terms of Notification No. 41/2012-ST dt.29.06.2012 and they had claimed rebate of service tax on the service of 'job work' used for export of PFP. The claim was examined in terms of the provisions of Notification No. 41/2012-ST. The

RSA took note of the fact that as per condition 3(g) of the notification, the claim for rebate of service tax paid on the specified service used for export of goods is required to be filed within one year from the date of export and that the date of export has to be reckoned from the date on which the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation under section 51 of the Customs Act, 1962. It was noticed that in the present case, the dates of Let Export Order (LEO) ranged between 07.04.2017 to 30.06.2017, except for two shipping bills for which the LEOs were 27.06.2017 & 30.06.2017 respectively. Therefore, it was concluded that the claim was hit by time bar for exports made between the dates 07.04.2017 and 30.06.2017.

3. On appeal, the Commissioner (Appeals) examined the provisions of the Notification No. 41/2012-ST and also the provisions under section 11B. He also examined the appellant's claim that for the purpose of limitation, their refund claim has to be examined as per the residuary clause in explanation (f) of section 11B. He also made observation that the rebate has to be granted strictly as per the notification under which the rebate has been claimed and there is no reference in particular to time limit in the notification to any of the provisions of section 11B of the Act. He has also examined various case laws cited by the appellant and distinguished the same holding that the ratio cannot be applied in their case.

4. Learned Advocate has reiterated their submissions as made in their appeal memorandum. He has essentially submitted that the approach of the Appellate Authority is too technical and contrary to the policy of the Government to encourage export goods/services. He has also pointed out that conventionally the practice has been to compute the limitation from the end of the quarter and it was impossible to claim refund consignment/ invoice wise. He has also relied on certain case laws, as under, in support that limitation for claim for refund is to be computed from the end of quarter or with reference to date of FIRCs.

a) CCE Vs Etisalat Software Solutions [Appeal No. ST/21811, 21813 & 21814/2016-SM CESTAT Bangalore]
b) Soccer International Pvt Ltd Vs CCE, Ludhiana [2014 (33) STR 334 (Tri-Del)]
c) CCE, Pune-I Vs SG Analytics Pvt Ltd [2016 (45) STR 131 (Tri-Mum)]

d) Ruchi Soya Industries Ltd Vs CCE, Indore [2017 (51) STR 453 (Tri-Del)]
e) British Airways PLC Vs UOI [2002 (139) ELT 6 (SC)]

5. Learned AR, on the other hand, has reiterated the findings of the Commissioner (Appeals) and has also relied on certain case laws, as under, in support that limitation has to be strictly computed in terms of express provisions in the Notification No. 41/2012-ST.

a) Gimpex Pvt Ltd Vs CCT, Tirupati-GST [2019 (8) TMI 1187 – CESTAT Hyderabad]
b) MMTC Ltd Vs CCE, C & ST, Visakhapatnam [2018 (5) TMI 167 – CESTAT Hyderabad]
c) Emerald Mineral Exim P Ltd Vs CCE & ST, Visakhapatnam-I [2017 (9) TMI 714 – CESTAT Hyderabad]
d) eShakti.com Pvt Ltd Vs CGST & CE, Chennai [2026 (2) TMI 235 – CESTAT Chennai]

6. Heard both sides and perused the records.

7. The short question for determination is whether the appellant is entitled for the refund to the extent rejected by the original RSA and further, upheld by the Commissioner (Appeals) or otherwise. Admittedly, the claim has been filed in terms of Notification No. 41/2012-ST. We find that the notification is essentially to grant rebate of service tax paid on the taxable services which are received by an exporter of goods and used for export of goods. This is, however, subject to certain conditions and manner which has been specified in the said notification. For the purpose of this dispute, the relevant condition is covered under condition 3(g), which is reproduced below for ease of reference.

> *"(3) the rebate shall be claimed in the following manner, namely:*
>
> *...*
>
> *(g) the claim for rebate of service tax paid on the specified services used for export of goods shall be filed within one year from the date of export of the said goods."*

8. A plain reading of the above provision would indicate that the claim has to be filed within one year from the date of export of the goods. By virtue of explanation, it has also been clarified that the date of export will be

the date when the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation under section 51 of the Customs Act. In other words, the relevant date is the date on which LEO is issued by proper officer of the Customs. We find that in view of the express provisions in the notification itself regulating the grant of rebate, the conditions have to be strictly followed. Moreover, this condition is not a procedural requirement as it has bearing on limitation. We also find that Commissioner (Appeals) has rightly observed that this is a self-contained notification, where for the purpose of limitation, section 11B has not been incorporated and a different provision has been made in the notification itself to regulate the limitation aspect. Therefore, we find that in this case, clearly the claims which are beyond one year of the LEO date and therefore would be hit by time bar.

9. We also find that the judgments cited by the appellant has no bearing inasmuch as in such cases, either notification itself had no provision for computing limitation or there was reference to section 11B. Both these cases are not applicable to the present appeal, where there is a specific condition and provision for computing limitation. On the other hand, we find that there is force in the case laws cited by the department. In the case of Gimpex Pvt Ltd Vs CCT, Tirupati-GST (supra), where the same provision i.e., condition 3(g) of Notification No. 41/2012-ST was examined and it was, inter alia, observed that appellant had not adhered to the condition specified in the notification nor there is any procedure for condonation of delay in filing of rebate claim. The appeal was rejected. The relevant para is cited below for ease of reference.

> *"5.5 In view of the foregoing discussions, I disallow the refund of Rs. 25,87,200/- as discussed in Para No. 5.2 and allow the refund of Rs. 3,01,365/- as discussed in Para 5.4.*
>
> *It is clear from the above that the appellant had filed a refund claim after one year from the date of let export order in respect of exported goods. The relavant date to be considered for one year for filing refund claim under Notification No. 41/2012-S.T. is the date of 'let export order'. I have also considered the reliance placed by the appellant on the order of Tribunal in the case of Ashok Granites v. Commissioner of Central Excise and Service Tax, Salem [2016 (46) S.T.R. 875 (Tri-Mad)]. It has been held therein that since Section 11B of the Central Excise Act prescribes the relevant date for the purpose of that section to be, inter alia, "in the case of goods exported out of India, where a refund of excise duty paid is available in respect of the goods themselves or the excisable materials used in the manufacture of such goods, if the goods are exported by sea or air, the date on the which ship or aircraft in which such goods are*

loaded, leaves India", this "relevant date" prevails over the "date of LEO" prescribed in the notification." It was, therefore, reasoned that refund is admissible within one year from the date of sailing of the ship. I respectfully disagree with this view. The entire benefit of refund accrues to the appellant only from the notification but for which no refund is admissible in this case. Any notification, being an exception to the general rule, must be strictly construed. If the notification prescribes any time limit it must be complied with. It is not open to this Bench to change the notification to enlarge, constrict or otherwise modify it. The vires of the notification has not been questioned or tested nor has any portion of it been declared ultra vires. In this case, the refund application was filed more than one year after the export. Accordingly, the refund is not admissible as per the Notification No. 41/2012-S.T. I therefore, find no infirmity in the order of the First Appellate Authority in partly rejecting the refund claim to the extent it is time-barred. The impugned order is upheld and the appeal is rejected."

10. In the case of MMTC Ltd Vs CCE, C & ST, Visakhapatnam (supra), it was held that refund claim filed after one year from the date of LEO is time barred.

11. Therefore, in view of the discussion and findings, supra, we do not find any infirmity in the order of the Commissioner (Appeals) and accordingly, the impugned order is upheld.

12. Appeal dismissed.

(Pronounced in the Open Court on 30.06.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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