IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO.I

CUSTOMS APPEAL NO. 95 of 2011

(Arising out of Order-in-Appeal No. Kol/Cus/CKP/322/2010 dated 29.11.2010 passed by Commissioner of Customs (Appeals), Custom House, 15/1, Strand Road, Kolkata-700001)

M/s. The Chief Material Manager/B1, Eastern Railway : Appellant
B1, Eastern Railway
3, Koilaghat Street
Kolkata-700001.

VERSUS

The Commissioner of Customs, : Respondent
Customs House,
Kolkata-700001.

APPEARANCE:

For the Appellant : Shri Bidyut Chakravorty, Advocate
For the Respondent : Shri Faiz Ahmad, Authorized Representative

CORAM:

HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.75660/ 2024

DATE OF HEARING/ DECISION: 08.03.2024

Order : [Per Mr. Ashok Jindal]

The Appellant is appalled against the impugned Order where the refund claim has been held barred by limitation.

2. The facts of the case are that the Appellant had imported an engine for home consumption on 17.03.2008 and paid appropriate custom duty. The engine got damaged during transportation to Balmer Lawrie and this damage was detected in a joint survey undertaken on 23-03-2008 but damage could not be ascertained.

3. Therefore, the engine was dismantled to know the actual loss and claim was lodged with insurance company for damage of the engine which was beyond repairs. The claim did not cover custom duty. After settling the claim by insurance company, the Appellant filed a refund claim on 08-06-2010.The refund claim was rejected by the authorities below as barred by limitation. Against the said order the appellant is before us.

4. We have gone through the records placed before us in which the appellant has not disputed that for the imports made by them on 17-03-2008, they filed refund claim on 08-06-2010 which is beyond the time limit prescribed under Section 27(1) (a) of the Customs Act, 1962. As admitted by the appellant them the claim is filed beyond the time limit prescribed under the provisions of law.

5. In that circumstances, we hold that the refund claim filed by the Appellant is barred by limitation. Accordingly, we do not find any infirmity with the impugned order.

6. The same is upheld and the appeal filed by the Appellant is dismissed.

(Operative part of the order was pronounced in open court)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

RKP