

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL, KOLKATA**

REGIONAL BENCH – COURT NO.2

**Excise Appeal No. 76670 of 2019**

(Arising out of Order-in-Appeal No.31-34/KOL-North/Kol/2019 Dated 06-02-2019  
passed by Commissioner of CGST & CX (Appeal-I), Kolkata)

**M/s. Neelachal Organization Pvt. Ltd.**

(2C, WBIDC Industrial Area, PO-Gayeshpur, Nadia-741234)

**Appellant**

*VERSUS*

**Commissioner of CGST & CX, Kolkata North Commissionerate**

(GST Bhawan (8<sup>th</sup> Floor), 180, Shantipally, Kolkata-700107)

**Respondent**

**With**

**Excise Appeal No. 76671 of 2019**

(Arising out of Order-in-Appeal No.31-34/KOL-North/Kol/2019 Dated 06-02-2019  
passed by Commissioner of CGST & CX (Appeal-I), Kolkata)

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(2C, WBIDC Industrial Area, PO-Gayeshpur, Nadia-741234)

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**Commissioner of CGST & CX, Kolkata North Commissionerate**

(GST Bhawan (8<sup>th</sup> Floor), 180, Shantipally, Kolkata-700107)

**Respondent**

**And**

**Excise Appeal No. 76672 of 2019**

(Arising out of Order-in-Appeal No.31-34/KOL-North/Kol/2019 Dated 06-02-2019  
passed by Commissioner of CGST & CX (Appeal-I), Kolkata)

**M/s. Neelachal Organization Pvt. Ltd.**

(2C, WBIDC Industrial Area, PO-Gayeshpur, Nadia-741234)

**Appellant**

*VERSUS*

**Commissioner of CGST & CX, Kolkata North Commissionerate**

(GST Bhawan (8<sup>th</sup> Floor), 180, Shantipally, Kolkata-700107)

**Respondent**

**APPEARANCE :**

None for the Appellant

Mr. P. K. Ghosh, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)**

**Excise Appeal Nos. 76670-76672 of 2019****FINAL ORDER NO. 75695-75697/2023**

Date of Hearing : 15 June 2023

Date of Decision : 15 June 2023

**PER R. MURALIDHAR**

No one appeared on behalf of the Appellant inspite of very clear Order being passed during the last Hearing directing the Appellant to be present for today's hearing.

2. Perused the Appeal papers with the help of the Learned AR. He submits that in two rebates, the Adjudicating Authority had granted the rebates claimed by the Appellant. Against such sanction of rebates, the Department had filed their Appeals before the Commissioner (Appeals), who has allowed the Department's Appeal. In case of these two rebate claims, the Adjudicating Authority had rejected the claims and aggrieved by the same, the Appellant has filed the Appeals before the Commissioner (Appeals) who dismissed their Appeals. Therefore, being agitated by the impugned Order OIA, the Appellant has filed the present Appeal before the Tribunal.

3. The Learned AR submits that since the issue involved is that of rebate, the matter cannot be agitated before this Tribunal. The Appellant is required to agitate the same before the RA-GOI.

4. After going through the relevant provisions of Proviso to Section 35B(1), I find that the Learned AR is correct. Recently in the case of the Appellant on identical issue, vide Final Order No. 75370/2023 dated 11 May 2023 this Tribunal has directed to the Appellant to file their Appeal before RA-GOI.

5. Accordingly, I hold that the Appellants should have filed their Appeals before the RA-GOI. Since they have erroneously filed these Appeals before this Tribunal, they are given an opportunity to do so now. The period spent by the Appellant before this Tribunal shall be excluded for calculating the time limit set for such Appeals to be filed before RA-GOI.

6. The Appeals stand disposed of thus.

(Dictated and pronounced in the open court.)

Sd/-

**(R. Muralidhar)**  
**Member (Judicial)**

Pooja