IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO. I

Appeal No. C/321 & 322/2010

(Arising out of Order-in-Original No. 12 & 13/2010/MCH/AC/ CPARS/2010 dated 6.1.2010 passed by the Commissioner of Customs (Appeals), Mumbai-I).

M/s M.P. Re-Cycling Co. Pvt. Ltd.	Appellant

Vs.

Commissioner of Customs (Import), Mumbai	Respondent

Appearance:

None	for Appellant
Shri Ahibaran, Addl. Commissioner (AR)	for Respondent

CORAM:

HON'BLE MRS. ARCHANA WADHWA, MMBER (JUDICIAL)
HON'BLE SHRI RAJU, MEMBERE (TECHNICAL)

Date of Hearing: 06.03.2018

Date of Decision: 06.03.2018

ORDER NO. **A/ 85645 - 85646 /2018**

Per: Archana Wadhwa

On matter being called, neither anybody appeared nor there is any adjournment request inspite of notice of hearing having been sent to the appellant well in advance. Accordingly, we have heard the learned AR and have gone through the impugned order.

2. As issue involved in both the appeal is identical, a common order is being passed.

3. The issue relates to refund of SAD, paid at the time of import of the goods in terms of the provisions of Notification No. 102/2007. The said notification allows refund of SAD paid at the time of import of the goods, on their subsequent sale, subject to the condition that proper Sales Tax/VAT stands paid.

4. The appellant filed the refund of SAD in terms of the said notification, which was granted by the original adjudicating authority. The order of the original adjudicating authority was challenged by the Revenue before Commissioner (Appeals), who reversed the same by observing that VAT was paid after one year from the date of payment of SAD.

5. We find that admittedly the goods were subsequently sold by the assessee on payment of VAT and the refund would become eligible only on the subsequent sale of the goods. There is no time limit laid down in the law. As such, we find that the order of the Commissioner (Appeals) is not proper and just. The same is accordingly set aside and the appeal is allowed with consequential relief to the appellant, if any, in accordance with law.

(Dictated and pronounced in Court)

(Raju)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

Sinha