IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: ST/85777/2017
APPLICATION NO: ST/STAY-92337/2017
CROSS-OBJECTION NO: ST/CO-91059/2017

[Arising out of Order-in-Appeal No: SK/74-75/LTU/MUM/2016-17 dated 29th December 2016 passed by the Commissioner of Central Excise (Appeals), LTU, Mumbai – I.]

Commissioner of Central Excise & Service Tax
LTU, Mumbai …***Appellant***

versus

Tata Consultancy Services Ltd ***…Respondent***

Appearance:

Shri MP Damle, Assistant Commissioner (AR) for appellant

Shri Sunil Gabhawala, Chartered Accountant for respondent

CORAM:

Hon'ble Shri C J Mathew, Member (Technical)

Date of hearing: 04/12/2017
Date of decision: 04/12/2017

ORDER NO: A/92278-92278 / 2017

When the matter was called out, it is found that the application filed by Revenue, seeking stay of the impugned order and the cross-objection filed by the respondent are not listed today. Both are taken up for disposal along with the appeal.

2. Revenue is in appeal against order-in-appeal no. SK/74-75/LTU/MUM/2016-17 dated 29th December 2016 of Commissioner of Central Excise (Appeals), LTU, Mumbai – I which allowed the appeal of M/s Tata Consultancy Services Ltd against rejection of the refund claim of ₹ 9,41,439/- on the ground of bar of limitation.

3. The case of Revenue is that the claim for refund of CENVAT credit should be filed within one year from the date of invoice as laid down by the Tribunal in *Affinity Express India Pvt Ltd v. Commissioner of Central Excise, Pune – I [2014-TIOL-1035-CESTAT-MUM]*. The original authority had taken the date of invoice for the computation of the period of limitation.

4. In view of the settled law that the period of limitation would be computed from the last date of the quarter to which the claim for refund pertains, the appeal of Revenue does not find sustenance and is accordingly dismissed.

5. As the appeal is disposed off, the stay application is dismissed as infructuous and the cross-objection filed by the respondent is also disposed off.

(Pronounced in Court)

(C J Mathew)
Member (Technical)

**/as*