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

APPEAL No. E/86919/2018

(Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-1114-17-18 dated 26.2.2018 passed by Commissioner of Central Tax (Appeals-I), Pune)

Suraksha Packers **Appellant**

Vs.

Commissioner of Central Excise & ST, Pune-I **Respondent**

Appearance:

Shri Lakshmi Venkataraaman, C.A., for appellant
Shri M.R. Melvin, Superintendent (AR), for respondent

CORAM:

Hon'ble Dr. D.M. Misra, Member (Judicial)

Date of Hearing: 16.8.2018
Date of Decision: 16.8.2018

ORDER No. **A/87099/2018**

Heard both sides.

2. This is an appeal filed against order-in-appeal No. PUN-EXCUS-001-APP-1114-17-18 passed by the Commissioner of Central Excise, Pune.

3. Briefly stated the facts of the case are that the appellant is engaged in the manufacture of corrugated box and on export of their finished goods, they filed refund claims for the quarter April – June 2016 and

July – September 2016, on 24.4.2017 involving a total amount of Rs.10,85,735/-. The said refund claim has been filed under Rule 5 of Cenvat Credit Rules, 2004. The adjudicating authority has sanctioned the refund claim. However, against the said order, the Revenue filed an appeal before the learned Commissioner (Appeals), who in turn allowed the Revenue's appeal. Hence the assessee is in appeal.

4. Learned Chartered Accountant for the appellant submits that they have complied with all the conditions of the Notification No.27/2012-CE(NT) dated 18.6.2012 issued under Rule 5 of the Cenvat Credit Rules, 2004. It is his contention that, however, instead of filing two quarterly refunds for the quarter April to June and July to September 2016, they filed a consolidated refund claim in April 2017 for six months. Before the adjudicating authority, they reconciled the eligibility of refund of accumulated cenvat credit for each quarter and consequently, the refund was sanctioned. He has vehemently argued that there was mere difference of Rs.317/- if the condition (d), (e), (g) of the notification is considered.

5. Learned AR for the Revenue reiterates the findings of the learned Commissioner (Appeals).

6. I find that even though the condition of the notification stipulates that separate refund claims required to be filed for each quarter, however, the appellant had filed a consolidated refund claim for two quarters at the end of six months mentioning their eligibility for each of the quarter. There is no other allegation of violation of any other condition of the notification to make them ineligible for the claim. In these circumstances, I find that on reconciliation of the quarter-wise refund, the difference comes to only Rs.317/-, which the appellant are not eligible, but otherwise the refund claims filed under Rule 5 of Cenvat Credit Rules, 2004 for the remaining amount is admissible to the appellant. Learned Advocate undertakes to deposit the said amount of Rs.317/- with interest. In these circumstances, the impugned order is modified to the extent above and the appeal is disposed of accordingly.

(Pronounced in court)

(Dr. D.M. Misra)
Member (Judicial)

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