CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 02

Excise Appeal No. 85613 of 2019

(Arising out of Order-in-Appeal No. NA/GST A-III/MUM./268/18-19 dated 12.11.2018 passed by Commissioner (Appeals)-III GST & CX. Mumbai)

Salvi Chemicals Industries Ltd. **.....Appellant**
214 Blue Rose Industrial Estate, W.E. Highway,
Borivali East
Mumbai – 400066.

VERSUS

Commissioner of CGST, Palghar **.....Respondent**
Utpad Shulk Bhavan, 5th Floor, Bandra Kurla Complex, Bandra East
Mumbai 400051.

Appearance:

Shri M.H. Sukheja, Advocate for the Appellant
Shri K.N Aherwar, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85509/2020

Date of Hearing : 05.03.2020
Date of Decision: 05.03.2020

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. The appellant has assailed the impugned order dated 12.11.2018 passed by the Ld. Commissioner (Appeals –III), GST & CX. Mumbai.

3. The issue involved in this case relates to filing of rebate claim applications under Rule 18 of the Central Excise (No.2) Rules, 2002 in respect of Central Excise duty paid on the goods exported by the appellant under ARE1s. The authorities below have rejected the rebate claims on the ground that the same were filed beyond the stipulated time frame and as such, were barred by limitation of time.

4. The provisions for filing of appeals before the Appellate Tribunal against various orders passed under the Central Excise statute are contained in Section 35B of the Central Excise Act, 1944. The said statutory provision mandates that an order passed by the Commissioner (Appeals) under Section 35A ibid can be appealed against before the Tribunal. However, the proviso clause appended to Section 35B ibid provides that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order relates to a rebate of duty of excise on goods exported to any country or territory outside India.

5. In this case, since the rebate claim applications were filed by the appellant for exportation of goods to a country, which was outside the territorial waters of India, as per the provisions of Section 35B ibid, appeal against the order of the Commissioner (Appeals) shall not be maintainable before the Appellate Tribunal.

6. Therefore, the appeal filed by the appellant is dismissed on the ground of jurisdiction. However, the appellant is at liberty to approach the concerned statutory authorities for redressal of its dispute.

(Dictated and pronounced in the open court)

(S.K. Mohanty)
Member (Judicial)

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