CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI
REGIONAL BENCH, COURT NO. 3

CUSTOMS APPEAL NO. 89148 OF 2018

(Arising out of Order-in-appeal No.673(CRC-SAD)-V)2018(JNCH)/Appeals-II dated 19.07.2018passed by the Commissioner of Customs (Appeals), JNCH, NhavaSheva,Mumbai-II, NhavaSheva, Taluka-Uran, District-Raigad-400707)

M/s.GEE LTD.
12B, Saravli, MIDC, Kalian-Bhwandi Road, Saravli,District-Thane-421311 **Appellant**

Vs.

THE COMMISSIONER OF CUSTOMS-NHAVA SHEVA-III
JNCH,NhavaSheva,Mumbai-II, NhavaSheva, TalukaUran, District-Raigad-400707 **Respondent**

Appearance:
Present for the Appellant:Ms.JyotirmaySengar, Advocate & Mr.AnilKabade,Advocate
Present for the Respondent: Mr.Ram Kumar (AR)

CORAM:HON'BLE MR.ASHOK JINDAL, MEMBER (JUDCIAL)

FINAL ORDER NO.86636/2024

Date of Hearing/Decision: **12.09.2024**

PER: Ashok Jindal

The appellant is in appeal against the impugned order wherein the refund claim of SAD has been rejected on the ground that the refund claim has been filed beyond one year from the date of payment of duty in terms of Notification No.102/2007-Cus., dated 14.09.2007 as amended by Notification No.93/2008-Cus dated 01.08.2008 by the Commissioner (Appeals).

2. The issue in this appeal relates to rejection of refund claim of SAD paid under section 3 (5) of Customs Tariff Act, 1975 in terms of Notification No.102/2007-Cus., dated 14.09.2007 as amended by Notification No.93/2008-Cus dated 01.08.2008.

3. The facts of the case are that the appellants filed refund claim of SAD of Rs.11,13,514/- on 29.03.2017 at the time of import of goods after clearance of the said goods for domestic market. The said refund claims were rejected as the same were filed after one year from the date of payment of SAD and accordingly the same were barred by limitation. Against these orders, the appellants are before me.

4. Heard both sides and considered the submissions.

5. The said issue has been decided in favour of the appellant in the cases of M/s.CambroNilkamalPvt.Ltd. and Nilkaman Ltd. vide Final Order No.86190-86195/2024 dated 11.09.2024 wherein it has been held that the time limit is to be calculated from the clearance of the said goods and if refund claim filed within one year. Admittedly, in this case the refund claim was filed within one year from the date of clearance of the goods for home consumption. Accordingly, I hold that the appellants are entitled to refund claim and the said refund claim cannot be rejected. In these terms, I set aside the impugned order and allow the appeal with consequential relief, if any.

(Order dictated & pronounced in court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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