

GIB/TN/ UNLIMITED INNOVATIONS/13.04.2021/OTHERS-23

Others Category : REFUND OF UNUTILIZED CENVAT CREDIT

State : Tamil Nadu

Order No.: GIB/TN/ UNLIMITED INNOVATIONS/13.04.2021/OTHERS-23

Name of Entry :

M/S. UNLIMITED INNOVATIONS [INDIA] PVT. LTD

Date : 13-04-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

In this case the appellant had filed the refund claims with the period of one year prescribed under section 11B of Central Excise Act, 1944. However, after scrutiny of the refund claims, the department reiterated the same, requesting the appellant to rectify certain discrepancies and also furnish documents. As per these directions, the refund claims were re-submitted on different dates. The authority below has considered the date of re-submission as date of filing the refund claim, which is erroneous. He argued that date of filing of refund claim originally has to be taken into consideration for computing the limitation.

The issue in Appeal No.ST/41298/2019 is with regard to non-compliance 2(g) of Notification No.07/2012-CE(NT), dated 18.06.2012. As per this clause, balance in Cenvat account should be below the claim for quarter. The appellant has to debit in the Cenvat account the amount that is claimed as refund. He adverted to page no.246 of the appeal paper book and submitted that the appellant has furnished the ST-3 returns for the relevant quarter, which would evidence the debit of the Cenvat credit for which refund claims have been submitted.

The above appeals have been filed by the appellant aggrieved by the rejection of refund claim filed under Rule5 of Cenvat Credit Rules, 2004.

Decision of Advance Ruling Authority :

DECISION:

The authorities below have computed the period of limitation from the date of re-submission of the refund claims. This is against the provisions of law. The date on which the refund claims has been originally submitted is the relevant date that has to be reckoned for computing the limitation of one year - When computed in such a manner, all these refund claims are well within time. The finding in the impugned order that these refund claims are time-barred is, therefore, set aside.

When the debit made by the appellant as evidenced by the ST-3 returns is considered, it would show that both clauses 2(h) as well as 2(g) has been complied. For these reasons, it is found that the rejection of the refund claim for the period April, 2017 to June, 2017 is not sustainable.

The appeals are allowed and the Refund Sanctioning Authority is directed to process the refund claims on merits - Appeal allowed.