



TAX ALERT

***Application for SAD
Refund cannot be
time barred if filed
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Application for SAD Refund cannot be time barred if filed within time, before different authority.

2016-TIOL-754-CESTAT-MUM

Issue: Whether claim for refund as per Notification No- 102/2007-Cus, available if refund application is filed within time limit before different authority?

Facts: The appellant filed a refund claim in terms of notification no- 102/2007-Cus dated 02.07.10 within one year at ICD Dadri instead of CFS Mulund. The Customs authority of ICD Dadri forwarded refund application to CFS Mulund, the refund claim was rejected being time barred on the ground that at the time of receipt of refund application from ICD Dadri to CFS Mulund, the prescribed time limit expired.

Revenue Contention: Revenue contended that the refund application was time barred.

Appellant Contention: The appellant contended that there was a bunch of claims that were to be filed through the appellant's consultant both for Dadri and Mulund. By mistake, the consultants filed these claims in question at Dadri instead of Mulund. But there was no dispute on the fact that the claims were filed within the stipulated time limit of one year.

Tribunal's Observation: The Hon'ble Tribunal observed that the facts and the issue were similar to the judgment given by Hon'ble High Court of Gujarat in the case of Commissioner of Central Excise Vs. AIA Engineering Ltd. (2011), wherein it was held that if the refund claim for the first time is filed within time, before different authority it cannot be said that the filing of refund is time barred.

Held: The Hon'ble Tribunal allowed the appeal filed by the appellant and rejected the appeal of revenue.