04.08.2022
Sl no. 21
Ct no. 2
P.M.

WPA 17048 OF 2022

M/s. Newby Teas Overseas Private Limited.
- Vs -
Joint Commissioner (Appeal), Kolkata Appeal-I, CGST & CX & Anr.

Mr. Vinay Kr. Shraff,
Ms. Priya Sarah Paul,
Mr. Kaushal Agarwal
... for the petitioner

Mr. Bhaskar Prosad Banerjee,
Mr. Abhradip Maity,
Ms. Shatabdi Sen
... for the respondents

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order of the appellate authority dated 20th April, 2022 arising out of the original order of rejection of the petitioner's claim of refund in question which was rejected on the ground of limitation. Petitioner has placed a notification being No. 13/2022-Central Tax dated 5th July, 2022 issued by Central Board of Indirect Taxes and Customs and contends that the period pertaining to the claim of refund in question is covered by the aforesaid notification.

In support of his contention petitioner also relies on several decisions including the decision of the Supreme Court and other High Court. Though the aforesaid notification dated 5th July, 2022 was not in existence at the time of passing the impugned order of rejection of petitioner's claim of refund or at the time of passing of the impugned order by the appellate authority but the factual and legal position remains that the refund in question pertains to the period which is covered by the aforesaid notification dated 5th July, 2022.

Considering the submission of the parties the aforesaid impugned order of the appellate authority dated 20th April, 2022 is set aside and the matter is remanded back to the appellate authority concerned for a limited purpose of passing a fresh order in accordance with law on the refund in question which is covered by the aforesaid notification and pass an order, within four weeks from the date of communication after affording an opportunity of hearing to the petitioner or its authorized representatives.

With this observation and direction this writ petition being WPA 17048 of 2022 is disposed of.

(Md. Nizamuddin, J.)