

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI

E/42086/2017

(Arising out of Order-in-Appeal No.32/2017 (CTA-II) dated 30.06.2017 passed by the Commissioner of GST & Central Excise (Appeals-II), Chennai).

M/s. Ravel Electronics Pvt. Ltd. : Appellant

Vs.

CCE, Chennai-II : Respondent

Appearance

Shri M. N. Bharathi, Adv.,
for the appellant

Shri R. Subramaniam, AC (AR)
for the Respondent.

CORAM:

Hon'ble P. DINESHA, Member (Judicial)

Date of Hearing/Decision: **21.05.2018**

FINAL ORDER No. **41530/2018**

The only dispute in this case is the levy of penalty under Rule 27 of Central Excise Rules, 2002.

2. It is the case of the appellant that SCN Nos. 4-16/2016 dated 09.02.2016 were issued by the adjudicating authority alleging that the monthly returns in ER-1 was filed belatedly and therefore, there was violation of Rule 12 (1) and Rule 12 (5) of CER, 2002, and Rule 9 (7) of CCR, 2004. The appellant duly responded to the

SCNs but, however, the adjudicating authority vide order dated 26.09.2016 has confirmed the penalty. The appellant did not succeed in its appeal before the Commissioner (Appeals), Chennai-II, who vide his order dated 30.06.2017 has rejected the appeal and therefore, the appellant is before this Tribunal.

3. It is the case of the appellant that it had in fact filed the manual returns for all the months in dispute, in time, and therefore, the levy of penalty was uncalled for just because there was no filing of e-return in time.

4. The Ld. AR on the other hand supported the findings given by the authorities below.

5. Heard both sides and considered the pleas as well as documents filed in the paper book.

6. It is the case of the appellant that it did file its monthly ER-1 returns manually, without any delay but the respondent without verifying the same has imposed the penalty only on the ground that the ER-1 return was filed electronically beyond the prescribed time limit.

7. Going by the contentions as aforesaid, I am of the considered view that this aspect needs to be verified by the adjudicating authority as to the filing of manual returns. If the same is in time then that proves the bonafides as claimed by the appellant even with regard to its reasons for delay in filing ER-1 electronically. If

the manual returns are in time, then no penalty lies. Therefore, the adjudicating authority shall verify as to the filing of manual returns as pleaded by the appellant and if the same is found to be within the prescribed period, then no penalty is to be levied.

8. The appeal is allowed for statistical purpose in the light of the above directions.

(Operative part of the Order pronounced in the open Court)

(P. DINESHA)
MEMBER (JUDICIAL)

BB