Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH-COURT NO. 3

Customs Appeal No. 10721 of 2020 - DB

(Arising out of OIA-JMN-CUSTM-000-APP-256-19-20 dated 14/02/2020 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD)

RELIANCE INDUSTRIES LIMITED ....**Appellant**
BUILDING NO 5-C, CA-22, 1ST FLOOR,
RELIANCE CORPORATE PARK, GHANSOLI
NAVI MUMBAI, MAHARASHTRA

VERSUS

Commissioner of C.-JAMNAGAR(PREV) ......**Respondent**
SHARDA HOUSE...BEDI BANDAR ROAD,
OPP. PANCHAVATI,
JAMNAGAR, GUJARAT

APPEARANCE:
Shri J C Patel, Ms. Shamita Patel, Ms. Shilpa Balani, and Shri Rahul Gajera, Advocates, appeared for the Appellant
Shri Prashant Tripathi, Superintendent(AR) appeared for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No.13070/2024

DATE OF HEARING: 28.11.2024
DATE OF DECISION: 04.12.2024

RAMESH NAIR

This appeal is arising out of the order passed in the matter of protective show cause notice whereby, it was proposed to recover the erroneous refund already granted. Against the sanction of refund, the matter was travelled upto this Tribunal and this Tribunal in Customs Appeal No.10317/2019 vide Final Order No.12707/2024 dated 14.11.2024 allowed the appeal of M/s.Reliance Industries Limited.

2. Shri J C Patel, Learned Counsel with Ms. Shamita Patel, Ms. Shilpa Balani, and Shri Rahul Gajera, Advocates appearing on behalf of the appellant submits that the genesis of this case is sanction order of the same refund which was challenged by the Revenue before the Commissioner (Appeals) who set aside the refund order and allowed the Revenue's appeal against which in the Assessee's Appeal No. 10317/2019 the appeal was allowed vide order

dated 14.11.2024. Therefore, the sanction of refund was finally decided in favour of the Assessee. Hence, the demand of erroneous recovery of the same refund in the present proceeding became infructuous. Accordingly, the present appeal deserves to be allowed.

3. Shri Prashant Tripathi, Learned Superintendent(AR) appearing on behalf of the Revenue fairly concede that the basis of recovery of the refund in the present case is consequential to the challenge of sanctioned order by the Revenue which subsequently, decided in the favour of the Assessee.

4. On careful consideration of the submissions made by both the sides and perusal of record, we find that in the present matter there is demand of recovery of the erroneous refund confirmed on the basis of the Commissioner (Appeals) order whereby, the sanctioned refund order was set aside. However, since this Tribunal vide Final Order No.12707/2024 dated 14.11.2024 in Appeal No.10317/2019 finally upheld the sanction of the refund ordered by the Adjudicating Authority, in the present appeal, the order for demand of erroneous refund became infructuous and non-est. Accordingly, the impugned order is set aside, appeal is allowed.

Pronounced in the open court on 04.12.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Bharvi