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

REGIONAL BENCH- COURT NO.3

Service Tax Appeal No.12837 of 2013-SM
(Arising Out Of OIA-239-240/2013/RAJ/CE/AK/COMMR-A/AHD Dated 10/05/2013 Passed By Commissioner Of Central Excise-RAJKOT)

Adani Wilmar Ltd ....**Appellant**
Survey No. 169v, Plot No. 03, Adani Port Road, Mundra,
KUTCH, GUJARAT

VERSUS

C.C.E. & S.T.-Daman ....**Respondent**
3rd Floor...Adarsh Dham Building, Vapi-Daman Road, Vapi
Opp.Vapi Town Police Station,
Vapi, Gujarat-396191

APPEARANCE:
Shri. S J Vyas, Advocates for the Appellant
Shri. Tara Prakash, Assistant Commissioner (AR) for the Respondent

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

Final Order No. A/ 12211 /2022

DATE OF HEARING: 08.12.2022
DATE OF DECISION: 08.12.2022

Raju

This appeal has been filed by M/s. Adani Wilmar Ltd. Against denial of refund under Notification No.17/2009-ST dated 07.07.2009.

2. Learned counsel at the outset submits that for the subsequent period refund has been allowed on the strength of the order of the Commissioner (Appeals) which has been accepted by the revenue. He argued that since on the issue the department has already taking a stand, this appeal may also be remanded back to the original adjudicating authority to follow the decision of Commissioner (Appeals) which has been accepted by the revenue for a fresh consideration in terms of the said order of the Commissioner (Appeals).

3. Learned AR relies on the impugned order.

4. I have considered the rival submissions. I find that learned counsel has produced Order-In-Original No. 02/DC/Mundra/Refund/2019-20 Dated. 24.05.2019 were relying on the decision of Commissioner (Appeals) in Order-In-Appeal No. KCH-EXCUS-000-APP-045-2019 dated 28.03.2019. The refund has been sanctioned. Order-In-Appeal has not been produced, the extract of the said order produced in the said refund order appear to confirm the views given by the learned counsel that the issue is same.

5. In view of above facts and accepting the request made by learned counsel, the impugned order is set aside and the matter is remanded to the original adjudicating authority to pass a fresh order after taking note of his own findings in Order-In-Original No. 02/DC/Mundra/Refund/2019-20 dated 24.05.2019.

6. Appeal is allowed by way of remand.

(Dictated and pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

Prachi