CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 03

SERVICE TAX Appeal No. 10036 of 2013-DB

[Arising out of Order-in-Original/Appeal No 08-24-ST-COMMR-SURAT-II-2012 dated 15.11.2012 passed by Commissioner of Central Excise and Service Tax-SURAT-II]

Bharuch Enviro Infrastructure Ltd ...Appellant

Plot No. 9701-16, Gidc Estate, Post Box No. 82, Ankleshwar,
Bharuch,
Gujarat

VERSUS

C.C.E. & S.T.-Surat-ii ...Respondent

New C.Ex Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat,
Gujarat-395001

APPEARANCE:
Shri Shri Mohit Rawal, Shri Suyog Bhave, , Advocates for the Appellant
Shri. Tara Prakash, Assistant Commissioner (Authorized Representative) for the Respondent

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

FINAL ORDER NO.A / 10070 /2023

DATE OF HEARING: 12.01.2023
DATE OF DECISION: 20.01.2023

RAMESH NAIR

This appeal is directed against order in original dated 15.11.2012, whereby the Adjudicating Authority has confirmed the demand of Rs. 2,08,87,634/- against various SCN.

2. Shri Mohit Rawal with Shri Suyog Bhave, Learned Counsels appearing on behalf of the appellant submits that the appellant in the routine course have already deposited the Service Tax for which the demand was raised and there was a small amount of Rs. 9,05,885/-, which was also separately deposited vide challan dated 24.05.2013. Therefore, no demand exists. Hence, the impugned order is liable to be set aside on this ground.

3. Shri Tara Prakash, Assistant Commissioner(Authorized Representative) for the Respondent appearing on behalf of the revenue reiterates the finding of the impugned order.

4. I have carefully considered the submissions made by both the sides and perused the records. We find that as per the submission of the appellant the entire amount stand paid. Therefore, *prima facie* no demand exist. The appellant have given the reconciliation as under:

Sr. No.	**Particulars**	**Amount**
1.	Demand as per SCN	2,08,87,634
2.	Less: Demand for April 2011 as per SCN	(42,30,677)
3.	Balance demand for May to September 2011	1,66,56,957
4.	Add: Amount disclosed in ST-3 but not considered in SCN	18,702
5.	Less: Paid with returns	(1,57,69,773)
6.	Less: Amount deposited vide separate challan	(9,05,885)
7.	Balance payable	NIL

From the above reconciliation it shows that appellant have paid entire amount of Rs. 2,08,87,634/-. However, the said reconciliation was not properly verified by the Lower Authority. Therefore, in our considered view matter needs to be remanded.

5. Accordingly, the impugned order is set aside. The appeal is allowed by way of remand to the Adjudicating Authority to pass a fresh order.

(Pronounced in the open Court on 20.01.2023)

RAMESH NAIR
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

PALAK