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

REGIONAL BENCH-COURT NO. 3

Service Tax Appeal No. 13134 of 2018-DB

(Arising out of OIA-RAJ-EXCUS-000-APP-165-2018-19 dated 20/09/2018 passed by Commissioner (Appeals), Central Excise, Customs and Service Tax-Rajkot)

Dhenu Infrastructure Pvt Ltd **...... Appellant**
Office No. 2, Aakash Ganga Apartment,
Nirmala Convent School Road,
Rajkot, Gujarat

VERSUS

Commissioner of C.E. & S.T.-Rajkot **......Respondent**
Central Excise Bhavan,
Race Course Ring Road...Income Tax Office,
Rajkot, Gujarat- 360001

APPEARANCE:
Shri Jigar Shah & Shri Amber Kumrawat, Advocate for the Appellant
Shri Rajesh Nathan, Assistant Commissioner (AR) for the Respondent

CORAM:
HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA
HON'BLE MEMBER (TECHNICAL), MR. SATENDRA VIKRAM SINGH

Final Order No. 10506/2025

DATE OF HEARING: 09.06.2025
DATE OF DECISION: 09.06.2025

SOMESH ARORA

The appellant M/s Dhenu Infrastructure Pvt Ltd had filed a refund claim for Rs. 1,01,84,374/- which was received by the concerned division office on 07.07.2017. The ground for seeking refund claim was that as per entry No. 12(a) of Notification No. 25/2012-ST, service provided to the government, a local authority or governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of civil structure or any other original works meant predominantly for use other than commerce, industries or any other business or profession is exempt from service tax. The said entry was delated in the Finance Bill, 2015. However, these services were again exempted vide Finance Bill, 2016 with retrospective effect. As per section 102 of the Finance Act, 1994, refund could be claimed by such service providers who had paid service for 2015-16.

2. The show cause notice dated 01.09.2017 was issued proposing rejection of the refund claim on the ground of time bar. The said issue was decided vide order dated 06.10.2017 wherein the refund claim filed by the appellant was rejected. Their appeal before the Commissioner (Appeals) was also rejected vide order dated 20th September, 2018 and hence, they filed the present appeal before this Tribunal.

3. The Learned Advocate fairly concedes that the issue involved is no more res-integra and has been decided against them in the matter of Dipesh Construction Company Vs. CCE, Kutch (Gandhidham) in service tax appeal No. 11522/2018 vide final order No. 10229/2025 dated 28.03.2025. He also stated that he was the presenting Advocate in that case. It was pointed out by him that the issue involved was whether refund claim filed as per the Provision of Section 102 of the Finance Act, 1994 after a period of six months from the date on which the Finance Bill, 2016 receives the assent of the president, could be granted or not? It was mentioned by him that the same has been decided against the appellant relying upon the decision of the Apex Court in the matter of M/s. Essar Bulk Terminal Salaya Ltd Vs. Union of India as reported at 2021-VIL-26-SC-ST.

4. Learned AR endorses the view of the learned Advocate and pleads for following the said order.

5. We have considered the rival submissions. We find that the issue is no more res-integra as has been fairly pointed out by the learned Advocate. In view of the foregoing, the appeal is devoid of merits and therefore, it is dismissed.

6. The Appeal filed by the appellant is dismissed.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha