CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70480 of 2020

(Arising out of Order-In-Original No. 22-Pr.COMMR.-ST-NOIDA-20-21, dated - 02/09/2020 passed by Principal Commissioner, CGST, Noida)

M/s HCL Technologies Ltd. **.....Appellant**
(A-10-11, Sector-3,
Noida, Uttar Pradesh 201301)

VERSUS

Commissioner, Central Goods & Service Tax, Noida **....Respondent**
(C-56/42, Renu Tower, Sector-62
Noida, U.P. 201307)

APPEARANCE:

Shri Atul Gupta, Advocatefor the Appellant
Shri Santosh Kumar, Authorized Representative for the Respondent

CORAM: **HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)**
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.-70941/2024

DATE OF HEARING : 15.10.2024
DATE OF DECISION : 15.10.2024

SANJIV SRIVASTAVA:

This appeal is directed against Order-In-Original No.22/Pr. Commr./ST/NOIDA/20-21 dated 02.09.2020 of the Principal Commissioner, Central Goods & Service Tax, Noida. By the impugned order following has been held:

ORDER

"1. I confirm the demand of Rs. 10,98,91,164/- (Rs. Ten Crores Ninety Eight Lakhs Ninety One Thousand One Hundred Sixty Four only) erroneously refunded and order to recover the same from M/s HCL Technologies Ltd., A- 10 & 11, Sector-3, Noida under Section 73(2) of the Finance Act, 1994.

> *2. I also order to recover the Interest from M/s HCL Technologies Ltd., A-10 & 11, Sector-3, Noida at the appropriate rates on the aforesaid amount of the confirmed demand, from the due date under Section 75 of the Finance Act, 1994."*

2.1 The facts leading to the present appeal are detailed in table below:

Date	**Event**
30.05.2013	The Appellant filed an application for refund claim of Rs 30,39,83,383/- for period July 2012 to September 2012 under Rule 5 of the Credit Rules read with Notification No, 27/2012-CE (NT)
26.08.2013	Show Cause Notice was issued proposing to reject the refund of Cenvat Credit amounting to Rs 78,57,052/-.
16.09.2013	The SCN was adjudicated vide Order-in-Original wherein refund claim of Rs 28,20,33,034/ - was sanctioned. However, the refund claim to the extent of Rs. 77,65,995/- was rejected.
18.11.2013	Aggrieved by the rejection of refund claim of Rs 77,65,995/- Appellant filed an appeal against the order in original before the Commissioner (Appeals).
24.12.2013	Department filed an appeal against the order in original before the Commissioner (Appeals) contesting of sanction of refund of Rs. 10,98,91,164/-
18.03.2014	The Commissioner (Appeals) partially rejected the appeal filed by the Appellant
	The Commissioner (Appeals) allowed the appeal filed by the Department.
11.08.2014	Revenue issued Show Cause Notice proposing to

	recover the refund granted earlier of amount Rs 10,98,91,164/- under Section 73 of the Finance Act along with interest.
	Aggrieved by both the Orders of the Commissioner (Appeals) the Appellant filed appeal no. ST/ 54492/2014 and appeal No. ST/54499/2014 respectively before the CESTAT.
02.09.2020	The show cause notice dated 11.08.2014 was adjudicated as per the impugned order referred in para 1 above.
27.09.2024	Both appeals were allowed by the CESTAT Allahabad vide Final Order No 70650-70653/2024

3.1 We have heard Shri Atul Gupta, Advocate for the Appellant and Shri Santosh Kumar authorized representative for the Revenue.

3.2 Arguing for the Appellant, learned counsel submits that demand made by protective show cause notice for erroneously granted refund has been confirmed by the impugned order. However by the Final Order 70650-70653/2024 dated 27.09.2024 CESTAT have allowed the appeals filed by them against the order of Commissioner (Appeal) allowing the appeal filed by the Revenue against the order in original allowing the erroneous refund. In view of the Order of CESTAT the impugned order needs to be set aside.

3.3 Authorized representative submits that the appeal of the Appellant against the order of Commissioner (Appeal) allowing the appeal of Revenue against erroneous refund has been allowed.

4.1 We have considered the impugned order along with the submissions made in the appeal and during the course of arguments.

4.2 As the appeal filed by the Appellant challenging the order of Commissioner (Appeal) allowing the appeal filed by Revenue against the grant of erroneous refund has been allowed by CESTAT vide Final Order No -70650-70653/2024 dated 27.09.2024, we do not find any merits in the impugned order.

5.1 Appeal is allowed.

(Operative part of the order pronounced in open court)

Sd/-
(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

Sd/-
(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

Nihal