CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70481 of 2020

(Arising out of Order-In-Original No. 21-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, Advocate for 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.-70942/2024

DATE OF HEARING : 15.10.2024
DATE OF DECISION : 15.10.2024

SANJIV SRIVASTAVA:

This appeal is directed against order in original No 21/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. 4,57,46,858/- (Rs. Four Crores Fifty Seven Lakhs Forty Six Thousand Eight Hundred Fifty Eight 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**
22.03.2013	The Appellant filed an application for refund claim of Rs 14,13,72,420/- for period April 2012 to June 2012, under Rule 5 of the Credit Rules read with Notification No, 27/2012-CE (NT).
24.06.2013	Show Cause Notice was issued proposing to reject the refund of Cenvat Credit amount to Rs 63,48,726/-.
16.08.2013	The SCN was adjudicated vide Order-in-Original wherein refund claim of Rs 13,35,62,158/ - was sanctioned. However, the refund claim to the extent of Rs. 50,28,969/- was rejected.
18.10.2013	Aggrieved by the rejection of refund claim of Rs 50,28,969/- Appellant filed an appeal against the OIO 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. 4,57,46,858/-.
26.12.2013	The Commissioner (Appeals) decided the appeal of the Appellant and rejected the refund claim to the extent of Rs 48,66,220/-.
18.03.2014	The Commissioner (Appeals) allowed the appeal filed by the Department.
23.07.2014	Revenue issued Show Cause Notice proposing to recover the refund granted earlier for amount Rs 4,57,46,858/- under Section 73 of the Finance Act along with interest.

24.06.2014 & 22.08.2014	Aggrieved by both the Orders of the Commissioner (Appeals) the Appellant filed appeal no. ST/ 53506/ 2014 and appeal No. ST/53531/2014 respectively before the CESTAT.
05.07.2016	Both the appeal were decided by Final Common Order dated 05.07.2016 whereby both the appeals were allowed by way of remand on ground that the cross appeals arising out of same order in original should be decided together.
11 12.2017	The department filed an appeal before the High court of Allahabad against the Final Order passed by the CESTAT The appeal was decided vide order dated 11.12.2017 wherein the Final Order of the Tribunal was upheld.
22.10.2019	The Commissioner (Appeals) decided the Department's appeal as well as the appeal of the Appellant through a Common Order in Appeal, wherein Department Appeal was allowed, and the Appellant appeal was rejected. Thus he rejected the refund claim of Rs 48,66,221/- and Rs. 4,57,46,858/-
	Aggrieved by the Order-in-Appeal, the Appellant filed appeal before the CESTAT Allahabad bearing no. ST/70035/2020 and ST/70038/2020.
02.09.2020	The show cause notice dated 23.07.2014 was adjudicated as per the impugned order referred in para 1 above.
02.08.2024	Both appeals were allowed by the CESTAT Allahabad vide Final Order No 70643-70644/2024

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 70643-70644/2024 dated 02.08.2024 CESTAT have allowed the appeal 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 70643-70644/2024 dated 02.08.2024, 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)

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