

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 659 of 2012

(Arising out of Order-in-Appeal No.451/2011 dated 19.12.2011 passed by the Commissioner of Central Excise (Appeals-II), Bangalore.)

The Commissioner of Service Tax

No.16/1, 5th Floor, S.P. Complex,
Lalbagh Road,
Bangalore – 560 027.

Appellant(s)

VERSUS

**M/s. Microchip Technolog (India)
Private Limited**

(*Erstwhile known as M/s. PMC Sierra India Pvt. Ltd.*)
No.149-B, EPIP Industrial Area,
1st Phase, Whitefield,
Bangalore – 560 066.

Respondent(s)

APPEARANCE:

Shri Rajashekar B.N.N, Superintendent, Authorised Representative
(AR) Advocate for the Appellant/Revenue.

Shri Jayaram Hiregange, Advocate for the Respondent.

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER
(TECHNICAL)**

FINAL ORDER NO. 22073 / 2025

DATE OF HEARING: 11.12.2025

DATE OF DECISION: 11.12.2025

PER: D.M. MISRA

This is an appeal filed by the Revenue against Order-in-Appeal No.451/2011 dated 19.12.2011 passed by the Commissioner of Central Excise (Appeals), Bangalore.

2. The respondent is an exporter of Information Software Technology Services and they had filed refund claim under Rule 5 of CCR, 2004 read with Notification No.5/2006-CE dated 14.03.2006 for an amount of Rs.3,30,87,660/- on 31.03.2010 for the services exported during the month of April 2009. The refund claim was rejected by the Original Authority on various grounds. Aggrieved by this order, they filed an appeal before the Commissioner (A) who in turn after analysing the objections raised by the Revenue as well as the submission of the respondent, remanded the matter to the adjudicating authority for *de novo* adjudication. Hence, the Revenue is in appeal.

3. At the outset, the learned advocate for the respondent has submitted that pursuant to the remand order, the adjudicating authority has passed *de novo* Order No.01/2013 – De novo dated 30.09.2013 and after considering the directions issued by the learned Commissioner (A), sanctioned the claim of Rs.2,79,88,244/- and rejected the balance amount of Rs.50,99,416/-. Consequent to the said order, the refund amount was received by them. While passing the *de novo* order, the learned adjudicating authority addressed all issues and verified the documents/evidences filed in support of refund claims and accordingly, allowed the admissible refund amount. Therefore, the present appeal becomes infructuous.

4. Learned Authorised Representative (AR) for the Revenue reiterated the grounds of appeal filed by the Revenue. He has fairly submitted that consequent to the remand order, the adjudicating authority has re-examined the whole issue and sanctioned the refund claim.

5. We find that the present appeal has been filed by the Revenue against the learned Commissioner (A)'s order on the ground that the learned Commissioner (A) has no power to

remand the case and also raised various objections about the finding of the learned Commissioner (A) viz., correlation of FIRC with export invoices, nexus of the services rendered to input services, etc. We find that all these issues have been addressed in the *de novo* order passed by the adjudicating authority and the refund claim has been sanctioned, which in turn was received by the Respondent and not disputed by the Revenue by filing an appeal against it. Therefore, the present appeal filed by the Revenue becomes infructuous and accordingly dismissed.

(Operative portion of the order was pronounced
in Open Court on conclusion of hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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