CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH
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REGIONAL BENCH – COURT NO. 1

Application No. ST/EH/60307/2019
Appeal No. ST/60146/2018

[Arising out of OIA-JAL-EXCUS-001-APP-121-17-18 DATED 15/11/2017 passed by the Commissioner (Appeals) of Central Excise and Service Tax-Jalandhar]

Guru Nanak Auto Enterprises Ltd. : **Appellant (s)**
(100% Eou),g.t. Road,jamalpur,phagwara,
Kapurthala, Punjab

Vs

CCE & ST- Jalandhar : **Respondent (s)**
HQRS AT F-BLOCK, RISHI NAGAR,
LUDHIANA, PUNJAB 92453

WITH
Application No. ST/EH/60308-60309/2019
Appeal No. ST/60931-60932/2018

[Arising out of OIA-LUD-EXCUS-001-APP-690-691-18 dated 20.03.2018 passed by the Commissioner (Appeals) of Central Excise and Service Tax-Jalandhar]

Guru Nanak Auto Enterprises Ltd. : **Appellant (s)**
(100% Eou),g.t. Road,jamalpur,phagwara,
Kapurthala, Punjab

Vs

CCE & ST- Jalandhar : **Respondent (s)**
HQRS AT F-BLOCK, RISHI NAGAR,
LUDHIANA, PUNJAB 92453

APPEARANCE:
Shri Gautam Chugh, Advocate for the Appellant
Shri A. K. Saini, Authorised Representative for the Respondent

CORAM : HON'BLE Mr. ASHOK JINDAL, MEMBER (JINDAL)
HON'BLE Mr. BIJAY KUMAR, MEMBER (TECHNICAL)

ORDER No. A/60540-60542 / 2019

Date of Hearing:20.05.2019
Date of Decision: 20.05.2019
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Per : Mr. Ashok Jindal

Heard the parties.

2. Considering the fact that the issue has already been decided in the applicant's own case for the earlier period, therefore we allow the applications for early of the appeals and the appeals are taken up together for disposal today itself.

3. We find that in the Final Order No. 63461/2018 dated 20.11.2018 this Tribunal passed the following order in the appellant's own case:-

> "The appellant is in appeal against the impugned order wherein refund claim filed by them under Notification No. 41/2012-ST dated 29.06.2012 has been denied on the following grounds:
>
> (A) The service provider was not required to pay service tax on the services provided abroad.
>
> (B) The original invoices were not produced.
>
> 2. Heard the parties.
>
> 3. Considering the fact that although services has been provided in abroad but the service provider has paid service tax and the same has been deposit with the Revenue and the appellant has borne the said service tax, therefore, in terms of Section 11(B) of the Central Excise Act, 1944, the appellant is entitled to file refund claim of the service tax borne by them, therefore, the appellant is entitled to claim the refund.
>
> 4. With regard to original invoices, I find that the appellant has produced the invoices which are computer generated invoices. On those invoices, no signature is required and it is presumed by the adjudicating authority as well as the Commissioner (A) that these are not original invoices. To that effect, the appellant has produced certificate from the provider of the services to the appellant. In that circumstances, the appellant is entitled to refund claim and the same cannot be rejected only on this sole ground.
>
> In these terms, I set aside the impugned orders and allow the appeal with consequential relief."

As the issue has already been decided in favour of the appellant, therefore, we set-aside the impugned order and allow the appeals with consequential relief, if any.

(Dictated & pronounced in the Court)

(Ashok Jindal)
Member (Judicial)

(Bijay Kumar)
Member (Technical)

G.Y.