CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
CHANDIGARH

COURT NO. I

Service Tax Appeal No. 659 of 2012

[Arising out of the Order-in-Appeal No. 64/ST/Appl/CHD-II/2012 dated 16/02/2012 passed by The Commissioner (Appeals), Central Excise & Service Tax, Chandigarh.]

M/s Centrient Pharmaceuticals India Pvt. Ltd. **Appellant**
(formerly known as DSM Sinochem
Pharmaceuticals India Pvt. Ltd.)
9th Floor Tower – A, Infinity Towers,
DLF Phase – II,
Gurgaon – 122 002 (Haryana)

Versus

The Commissioner of Central Excise and Service Tax, **Respondent**
Central Excise House, F – Block,
Rishi Nagar,
Ludhiana – 141 001.

APPEARANCE

Shri Ashok Dhingra and Ms. Sonia Gupta, Advocates – for the appellant

Shri A.K. Saini, Authorized Representative (DR) – for the Respondent.

CORAM: **HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**
HON'BLE SHRI C.L. MAHAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 61246/2019

DATE OF HEARING : 03/09/2019.
DATE OF DECISION : 03/09/2019.

ASHOK JINDAL :-

The appellant is in appeal against the impugned order wherein refund of Rs. 62,53,756/- has been rejected by the authorities below.

2. The facts of the case are that the appellant is receiving management consultancy services from their group companies located outside India during the period 22 March 2004 to March 2007. During the course of audit, an objection was raised that

appellant has not discharged service tax liability under management consultancy services under reverse charge mechanism on corporate service charges paid to overseas group companies DSM NV Netherlands. During the period April 2006 to March 2007, the appellant paid service tax alongwith interest for the period 19 April 2006 to October 31, 2007 the appellant also paid service tax for the period March 2004 to January 2006 under protest of Rs. 62,53,756/-. Thereafter, a show cause notice was issued to the appellant to demand service tax and the matter was adjudicated demand of service tax was confirmed. While replying to the show cause notice, the appellant submits that the appellant is not liable to pay service tax under reverse charge mechanism for management consultancy services for the period prior to 18 April 2006 as no service tax is payable by the appellant but demand was confirmed. Thereafter, the appellant filed an appeal before this Tribunal and this Tribunal held that the appellant is liable to pay service tax on services received from foreign entity on reverse charge mechanism only from 18 April 2006 and set aside the penalty. In consequence to the order of this Tribunal, the Commissioner refused to entertain the refund of Rs. 62,53,756/- alongwith interest paid under protest which was appropriated for the period 22 March 2004 to January 2006 deposited prior to 18 April 2006. Against the said order, the appellant is before us.

3. Heard the parties considered the submissions.

4. As it has already been held that for the period prior to 18 April 2006, the appellant is not liable to pay service tax under reverse charge mechanism for the service received from abroad under management consultancy service, therefore, no service tax is payable by the appellant. Therefore, the service tax paid alongwith interest for the period prior to 18 April 2006 has become refundable to the appellant and the Revenue cannot retain the said amount with them.

5. In view of this, we set aside the order of rejecting the claim of refund filed by the appellant of the period prior to 18 April 2006 and direct the authorities below to sanction the refund claim of service tax paid alongwith interest under protest by the appellant for the period prior to 18 April 2006 alongwith interest.

6. With these terms, the appeal is allowed.

(Operative part of the order pronounced in the open court.)

(Ashok Jindal)
Member (Judicial)

(C.L. Mahar)
Member (Technical)

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