CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHANDIGARH</u>

REGIONAL BENCH - COURT NO. I (E-HEARING)

Service Tax Appeal No. 60447 of 2020

[Arising out of Order-in-Appeal No. 22-23-ST-CGST-APPEAL-GURGRAM-SG-2020-21 dated 01.07.2020 passed by the Commissioner (Appeals) CGST, Gurugram]

Teleperformance Global Services Pvt Ltd **……Appellant**
Plot No. 408, Udyog Vihar Phase III,
Gurugram, Haryana

VERSUS

Commissioner of CE & ST, Gurgaon-I **……Respondent**
Plot No. 36-37, Sector 32, Near Medanta Hospital,
Gurgaon, Haryana

with

Service Tax Appeal No. 60469 of 2020

[Arising out of Order-in-Appeal No. 18-ST-CGST-APPEAL-GURGRAM-SG-2020-21 dated 01.07.2020 passed by the Commissioner (Appeals) CGST, Gurugram]

Tecnovate E Solutions Pvt Ltd **……Appellant**
Plot No. 408, Udyog Vihar Phase III,
Gurugram, Haryana

VERSUS

Commissioner of CE & ST, Gurgaon-I **……Respondent**
Plot No. 36-37, Sector 32, Near Medanta Hospital,
Gurgaon, Haryana

<u>APPEARANCE:</u>

Present for the Appellant: Mr. Udayan Choksi, Advocate

Present for the Respondent: Mr. Bhasha Ram, Authorized Representative

<u>CORAM:</u> **HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

FINAL ORDER NO. 60842-60843/2021

DATE OF HEARING: 24.05.2021
DATE OF DECISION: 24.05.2021

PER ASHOK JINDAL:

The appellants are in appeal against the impugned orders. As both the appeals are having common issue, therefore, both are decided by a common order.

2. The facts in Appeal No. ST/60447/2020 are as follows:

The appellant filed refund claims under Rule 5 of Cenvat Credit Rules, 2004 during the period 2006-09. The said refund claims were rejected by the common order dt. 21.12.2009. The said order was challenged before the ld. Commissioner (Appeals) who vide order dt. 24.02.2010 remanded the matter back to the adjudicating authority who again rejected the refund claims vide order dt. 14.06.2013. Thereafter, on 26.05.2014, the ld. Commissioner (Appeals) partly allowed the refund claim and partly rejected the refund claim. The said order was challenged before this Tribunal and this Tribunal vide order dt. 05.10.2018 allowed the refund claim on merits but remanded the matter back to the adjudicating authority for calculation and verification. The adjudicating authority vide order dt. 22.11.2019 partly allowed the refund claim and partly rejected, but on appeal by the appellant, the ld. Commissioner (Appeals) vide order dt. 01.07.2020 allowed the refund claim to the appellant, but did not consider the claim of interest raised by the appellant. Against the order of non-consideration of the issue of interest or rejection of payment of interest, the appellant is before this Tribunal.

3. The facts in Appeal No. ST/60469/2020 are as follows:

The appellant filed the refund claim under Rule 5 of the Cenvat Credit Rules, 2004 during the period the period 2009-10. The said refund claim was rejected vide order dt. 22.08.2013. On appeal, the ld. Commissioner (Appeals) also rejected the refund claim vide order dt. 23.07.2014. Against the said order, the appellant preferred this appeal before this Tribunal and this Tribunal vide order dt. 27.07.2018 allowed the refund claim to the appellant. To consequent to the order of this Tribunal, the adjudicating authority vide its order dt. 22.11.2019 partly allowed the refund claim, partly rejected. On appeal, the ld. Commissioner (Appeals) allowed the refund claim vide order dt. 01.07.2020, but did not consider the claim of interest raised by the appellant. Against the order of non-consideration of the issue of interest or rejection of the issue of interest, the appellant is before this Tribunal.

4. The ld. Counsel for the appellants submits that as the issue in both the appeals is common, therefore, in the light of the decision of the Hon'ble Apex Court in the case of *Ranbaxy Laboratories Limited vs. CCE – 2011 (273) ELT 3 (SC)*, the appellants are entitled to claim the interest on refunds after three months from the date of filing of the claim of refund if the same has not been sanctioned within the period, although the matter be litigated at higher stage. Therefore, he submits that the appellant is entitled to claim the interest.

5. On the other hand, the ld. AR submits that as the authorities below have not considered the claim of interest of the appellants, therefore, the matter be remanded back to the adjudicating authority to considered the claim of interest.

6. Heard the parties and considered the submissions.

7. The decision of the Hon'ble Apex Court in the case of *Ranbaxy Laboratories Limited (supra)*, wherein the Apex Court has cleared that if the assessee filed the refund claim and the same is to be sanctioned within three months from the date of filing of the refund claim and the same is not sanctioned, then the Revenue has to pay the interest thereon on till its realization after three months from the date of filing of the refund claim although there may be litigation in the matter. Admittedly, the appellants have filed the refund claims during the period 2006-09 and 2009-10 respectively and the same have not sanctioned within three months from the date of filing of the refund claim. In these circumstances, the appellants are entitled to claim interests on delayed refunds after three months from the date of filing of the refund claim till its realization.

8. In these terms, I allow the claim of interest by the appellants. Accordingly, the appeals are allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

RA_Saifi