CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

Regional Bench – Court No. III

Service Tax Appeal No. 40235 of 2019

(Arising out of Order-in-Appeal No. 477 & 478/2018 (CTA-II) dated 10.10.2018 passed by the Commissioner of Central Tax (Appeals-II): C.G.S.T. & Central Excise, Newry Towers, 2054/1, II Avenue, 12th Main Road, Anna Nagar, Chennai – 600 040)

M/s. Scintel Technologies Pvt. Ltd., : **Appellant**
1st Floor, RVI Towers,
No. 149, Velachery Tambaram Main Road,
Pallikaranai, Chennai – 600 100

VERSUS

The Commissioner of G.S.T. & Central Excise, : **Respondent**
Chennai Outer Commissionerate,
Newry Towers, No. 2054/1, 2nd Avenue,
12th Main Road, Anna Nagar,
Chennai – 600 040

WITH

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APPEARANCE:

Shri. Ganesh Kumar, Consultant for the Appellant

Shri. L. Nandakumar, Authorized Representative for the Respondent

CORAM:

HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)

FINAL ORDER NOs. 40766-40767 / 2019

DATE OF HEARING: 06.05.2019

DATE OF DECISION: 06.05.2019

Brief facts are that the appellants are engaged in the export of services and they filed refund claim under Rule 5 of the CENVAT Credit Rules ('CCR' for short), 2004 for refund of unutilized credit. The refund claim was filed under Rule 5 of the CCR, 2004 read with Notification No. 27/2012-CE (NT) dated 18.06.2012. The Department rejected the refund claims alleging that the appellant has not complied with Clause 2(h) of the Notification. In appeal, the Commissioner (Appeals) vide impugned order dated 10.10.2018 upheld the same. Hence, this appeal.

2. On behalf of the appellant, Ld. Consultant Shri. Ganesh Kumar appeared and argued the matter. He submitted that before filing the refund claim for the period from January 2017 to March 2017 as well as from April 2017 to September 2017, the appellant had debited the amount in their accounts. However, the refund claims have been rejected stating that such debit has not been reflected in their ST-3 returns. He pointed out that there was no requirement in the Notification for reflecting the same in the ST-3 returns and that the condition only requires the assessee to debit the amount in their accounts. He relied upon the decision in the case of ***Commissioner of Central Excise, Pune-III Vs. M/s. Bora Agro Foods reported in 2015 (11) T.M.I. 1338 (Tri. – Mum.).***

3. Ld. AR Shri. L. Nandakumar appearing on behalf of the respondent supported the findings in the impugned order.

4. Heard both sides.

5. The only issue on which the refund claims have been rejected is that the appellant has not complied with condition 2(h) of Notification No. 27/2012-CE (NT) dated 18.06.2012. The said condition does not require the assessee to reflect the amount debited in their ST-3 returns. It is sufficient if the assessee/appellant debits the amount claimed as refund in their accounts. There is no dispute that the appellant has not debited the amount in their account.

6. For these reasons, I find that the rejection of refund claim on the allegation that the appellant has not complied with condition 2(h) of the

Notification is unjustified and requires to be set aside, which I hereby do. The impugned order rejecting the refund claim is set aside.

7. The appeals are allowed with consequential reliefs, if any, as per law.

(Dictated and pronounced in open court)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

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