CUSTOMS, EXCISE AND SERVICE TAXAPPELLATE TRIBUNAL CHENNAI

Regional Bench – Court No. III

Service Tax Appeal No.41921 of 2017

(Arising out of Order-in-Appeal No.124, 125, 126,127 & 128 (STA-I) dt. 21.03.2017 passed by the Commissioner of Service Tax (Appeals-I) Chennai)

M/s. GE Drilling Engineering Services of India Pvt.Ltd. : **Appellant**
(PC Hydril Technical Services of India P. Ltd.)
Aban Nagar No.55,Keevalur Road
Thandalam Village & Post
Sriperumbudur Taluk, Kanchipuram District
Tamil Nadu 602 105.

VERSUS

The Commissioner of GST & CE **: Respondent**
Newry Towers, 2054/I,II Avenue,
Anna Nagar
Chennai 600 040.

WITH

(i) Service Tax Appeal No. 41922 of 2017 (M/s. GE Drilling Engineering Services of India Pvt.Ltd.)

(ii) Service Tax Appeal No. 41923 of 2017 (M/s. GE Drilling Engineering Services of India Pvt.Ltd.)

(iii) Service Tax Appeal No. 41924 of 2017 (M/s. GE Drilling Engineering Services of India Pvt.Ltd.)

(iv) Service Tax Appeal No. 41925 of 2017 (M/s. GE Drilling Engineering Services of India Pvt.Ltd.)

(Arising out of Order-in-Appeal No.124, 125, 126,127 & 128 (STA-I) dt. 21.03.2017 passed by the Commissioner of Service Tax (Appeals-I) Chennai)

APPEARANCE:

Shri Sivarajan, Consultant for the Appellant

Shri S. Govindarajan, AC (AR) for the Respondent

CORAM:

HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)
HON'BLE MR. P. VENKATA SUBBA RAO, MEMBER(TECHNICAL)

FINAL ORDER NOs. 40828-40832 / 2019

DATE OF HEARING: 12.06.2019

DATE OF DECISION: 12.06.2019

PER : SULEKHA BEEVI C.S

The above appeals have been filed by the appellants aggrieved by the rejection of refund claims filed under Rule 5 of Cenvat Credit Rules, 2004 read with Notification No.27/2012 (CE-NT).

2. On behalf of the appellants, Ld. Consultant Shri Sivarajan appeared and argued the matter. He submitted that the appellant is engaged in providing Engineering, Design and Drawing Services to M/s.Hydril USA Manufacturing LLC in Houston and such services are predominantly exported. Appellant was entitled to utilize cenvat credit availed on input services. Hence they had filed refund claims for refund of unutilized credit. The refund sanctioning authority rejected the refund claims holding that the same are time-barred. He submitted that the original authority has computed the period of one year from the date of issue of export invoices. He relies upon the decision of the Larger Bench of the Tribunal in *CCE Service Tax Vs Span Infotech (India) Pvt. Ltd.* – 2018-TIOL-516-CESTAT BENGALORE-LB to argue that in the case of export of services, the relevant date for computing the period of one year is the date of realization of foreign exchange. In all these appeals, when the period of computation is reckoned from the date of receiving foreign exchange, the refund claims are well within time. He also relies upon the decision of the Chennai Bench of the Tribunal in the case of *CENZA Technologies Pvt. Ltd. Vs CST Chennai -* 2017 (4) G.S.T.L. 150 (Tri.-Chennai) and also in the case of *CCE & ST Hyderabad-IV Vs Hyundai Motor India Engg. Pvt. Ltd.*- 2015 (39) S.T.R. 984 (A.P).

3. Ld. A.R Shri S. Govindarajan supported the findings in the impugned order. He adverted to the decision of the High Court in the case of *CCE Coimbatore Vs GTN Engineering (I) Ltd. -* 2012 (281) ELT 185 (Mad.) to submit that relevant date has to be computed from the date of export.

4. Heard both sides.

5. As per Section 11B of the Central Excise Act, 1944, the relevant date for computation of period of one year in the case of export of services is not mentioned. The said section deals only with relevant date in cases of export of goods. The decision relied upon by Ld. A.R in the case of *GTN Engineering (I) Ltd.* (supra) also deals with the issue for computation of relevant date in the case of export of goods. In the present case, the issue is with regard to computation of the period of limitation in case of export of services. The said issue stands settled by the Tribunal's Larger Bench decision in the case of *Span Infotech (India) Pvt. Ltd. (*supra*)*. Following the said decision, we are of the considered view that rejection of refund claims on the ground that it is time-barred is unjustified. The refund claims are within time. The impugned orders are set aside. Appeals are allowed with consequential benefits, if any, as per law.

(Dictated and pronounced in open court)

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

(P. VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

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