

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT NO. I

Service Tax Appeal No. 40467 of 2019

(Arising out of Order-in-Appeal No. 691 & 692/2018 (CTA-II) date 28.12.2018 passed by the Commissioner of G.S.T. & Central Excise (Appeals-II), Newry Towers, 2054/1, II Avenue, 12th Main Road, Anna Nagar, Chennai – 600 040)

M/s. String Information Services Pvt. Ltd., : **Appellant**
GR Complex, 5th Floor, Anna Salai,
Nandanam, Chennai – 600 035

VERSUS

The Commissioner of G.S.T. & Central Excise, : **Respondent**
Chennai South Commissionerate,
No. 692, Anna Salai, MHU Complex,
Nandanam, Chennai – 600 035

WITH

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APPEARANCE:

Shri. S. Ramachandran, Consultant for the Appellant

Shri. L. Nandakumar, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

FINAL ORDER NOS. 40972-40973 / 2019

DATE OF HEARING: 18.07.2019

DATE OF DECISION: **31.07.2019**

These appeals are filed by the assessee against the denial of refund claimed under Rule 5 of the CENVAT Credit Rules, 2004 ('CCR' for short) for the two periods viz., January 2017 to March 2017 and April 2017 to June 2017.

2.1 It is the case of the assessee that its claims of refund relate to the period during which time G.S.T. was introduced and that while migrating to the G.S.T. regime, the assessee by mistake transferred the closing balance under CENVAT Account as on 30.06.2017 to G.S.T. Credit through TRAN-1. Realizing the above mistake, the assessee appears to have revised its TRAN-1 in their Electronic Credit Ledger (dated 26.12.2017) in terms of Rule 120A of the C.G.S.T. Rules (vide Notification No. 34/2017-CT dated 15.09.2017).

2.2 Thereafter, the appellant filed refund claim on 12.09.2017 for the first period and on 28.12.2017 for the second period, but however, requested for processing of the refund claims without issue of Show Cause Notice/Personal Hearing. The Adjudicating Authority vide Order-in-Original Nos. 53/2018 (R) and 54/2018 (R) both dated 20.08.2018 rejected the entire refund claims, against which the assessee approached the First Appellate Authority by filing Appeals.

2.3 The Commissioner of G.S.T. and Central Excise (Appeals-II), Chennai vide common impugned Order-in-Appeal Nos. 691 and 692/2018 dated 28.12.2018 rejected the Appeals *inter alia* on the grounds that the assessee had not debited the same amounts and shown it in the respective ST-3 returns; that Rule 7B of the Service Tax Rules, 1994 gives a period of ninety days for filing revised ST-3 return, but the assessee was unable to do so in view of the introduction of G.S.T. regime; that vide Notification No. 18/2017-S.T. dated 22.06.2017, the revised return could have been submitted within forty five days from 28.09.2017; that considering the date of the

assessee's refund applications, the assessee had the choice of filing revised ST-3 return up to 23.07.2017 for the first period in dispute and up to 28.09.2017 for the second period in dispute as per Rule 7B *ibid.*; that the assessee's plea as to the non-making/not reflecting of the debit entries in the ST-3 return would not help the assessee since the same is hit by paragraph 2 (h) of Notification No. 27/2012-C.E.(N.T.) dated 18.06.2012, etc.

3. When the matter was taken up for hearing, Shri. S. Ramachandran, Ld. Consultant, appeared for the assessee and Shri. L. Nandakumar, Ld. AR, appeared for the Revenue.

4. Reiterating the submissions made before the lower authorities, Ld. Consultant also contended that none of the authorities below had considered the facts in the proper perspective in the respective order.

5. Ld. AR, vehemently opposing the contentions of the Ld. Consultant, drew support from the findings of the authorities below.

6. Heard both sides.

7. I note that an identical issue with regard to the alleged violation to paragraph 2 (h) of the Notification No. 27/2012 (*supra*) vis-à-vis the claim of refund, has been considered by this Bench of the Tribunal in the case of ***M/s. Global Analytics India Pvt. Ltd. Vs. The Commissioner of G.S.T. & Central Excise in Service Tax Appeal No. 42172 of 2018 & anor. vide Final Order Nos. 40942-40943/2019 dated 22.07.2019*** wherein, after considering the various contentions, it has been held as under :

"7.1 It is an undisputed fact that the appellant did not reverse the equal amount as required by the condition at paragraph 2(h) of Notification No. 27/2012 (supra). But the fact also remains that there was no provision in the ACES system to debit the value of refund and also the fact that the entire credit which was carried forward

in TRAN-1 stood reversed by the appellant voluntarily in its GSTR-3B filed for the month of April 2018.

7.2 The above facts, according to me, are sufficient compliances with the condition at paragraph 2(h) since post G.S.T., the scenario is different than the one prevailing prior to G.S.T. regime. Otherwise, it would become an impossible task for an assessee, more so when the filing of ST-3 returns itself was done away with.

8. I also note that the Board has clarified the above position in its Circular No. 58/32/2018-G.S.T. (supra) and I also note that more or less the same view is expressed in all the orders relied on by the Ld. Advocate for the appellant.

9. In view of the above, I am of the considered opinion that the denial of refund is not in accordance with law and hence, the impugned orders cannot sustain. The same are set aside.

10. Consequently, the appeals stand allowed with consequential benefits, if any, as per law."

8. Following the above ratio, the impugned order is set aside and the appeals are allowed with consequential benefits, if any, as per law.

(Order pronounced in the open court on **31.07.2019**)

(P. DINESHA)
MEMBER (JUDICIAL)