CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

Service Tax Appeal No.41368 of 2019

[Arising out of Order-in-Appeal No.66/2019 (CTA-II), dated 29.03.2019 passed by the Commissioner of CGST & Central Tax (Appeals-II), Chennai]

Commissioner of GST and CE, **: Appellant**
Chennai South Commissionerate,
No.692, MHU Complex,
Anna Salai, Nandanam,
Chennai – 600 035.

VERSUS

M/s. BNY Mellon Technology Pvt. Ltd., **: Respondent**
10th Floor, Tidel Park,
No.4, Canal Bank Road,
Taramani, Chennai 600 035.

APPEARANCE:

Ms. Sridevi T, Authorised Representative for the Appellant

Shri N.V.S. Ramani, Cons. for the Respondent

CORAM:

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

FINAL ORDER NO. 41636/2019

DATE OF HEARING: 03.12.2019

DATE OF DECISION: 03.12.2019

Brief facts are that the appellants filed refund claim under Rule 5 of Cenvat Credit Rules for refund of the unutilised credit. Part of the claim was rejected alleging that the invoices are addressed to unregistered premises. The original authority rejected the refund claim, whereas, in the appeal filed by the appellant, the Commissioner (Appeals) ordered for sanction of refund. The department has filed the present appeal aggrieved by such sanction of refund.

2. The learned Authorised Representative for the Revenue Ms. Sridevi.T, appeared and argued on behalf of the department. She submitted that the appellant has availed the services prior to obtaining registration for the premises. As the registration was obtained only in 2017, she pleaded that the orders may be reversed.

3. The learned consultant Shri N.V.S. Ramani appeared for the respondent. He submitted that prior to setting up of the office, the respondent had to avail various input services and had paid service tax on such input services. He relied upon the decision of the Hon'ble jurisdictional High Court in the case of *Commissioner of Service Tax, Chennai –III Vs M/s. Scioinspire Consulting Services (India) Pvt. Ltd.* reported in *2017 – TIOL – 798 HC – MAD –ST* as well as in the case of M/s. *mPortal India Wireless Solutions P. Ltd., Vs Commissioner of Service Tax, Bangalore* reported in *2012 (27) S.T.R. 134 (Kar.)*.

4. Heard both sides.

5. The issue is with regard to the rejection of refund claim alleging that the premises for which the output services were provided is not registered with the department. The said issue has been settled by the decision of the Hon'ble jurisdictional High Court in the case of *M/s. Scioinspire Consulting Services (India) Pvt. Ltd.* (supra). Following the same, I am of the view that the Commissioner (Appeals) has rightly sanctioned the refund. The impugned order does not call for any interference. The appeal filed by the department is dismissed.

(Dictated and pronounced in the open court)

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

ksr
04-12-2019