CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SZB, CHENNAI

COURT I : Single Member 3 B3

APPEAL No. ST/40157/2021

(Arising out of Order-in-Appeal No. 84/2020 CTA-II dated 30.09.2020 passed by the Commissioner of GST & Central Excise (Appeals-II), Chennai).

M/s. Hexaware Technologies Ltd. Appellant
Plot No. H 5, SIPCOT Information
Technology Park,
Navallur Post, Siruseri,
Kanchipuram District – 603 103

Vs.

The Commissioner of GST & Central Excise Respondent
Newry Towers, 2054/ 1, II Avenue,
12th Main road, Anna Nagar,
Chennai – 600 040.

APPEARANCE

FOR APPELLANT : Shri Ramani NVS, Consultant
FOR RESPONDENT : Ms. Sridevi Taritla, ADC, Authorized Representative

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Hon'ble Shri P. DINESHA, MEMBER (JUDICIAL)

Date of Hearing: **03.08.2021**
Date of Decision: **03.08.2021**

FINAL ORDER No . 41716/2021

Heard Shri Ramani NVS, learned Consultant for the appellant and Ms. Sridevi Taritla, ADC, Departmental Representative.

2. There is no dispute that the appellant is registered as a Special Economic Zone unit operating from the Special Economic Zone and therefore, provisions of Special Economic Zone Act 2005 (SEZ Act in short), applies.

3. The appellant filed a refund claim under Rule 5 of the Cenvat Credit Rules,2004 read with Notification No. 27/2012-CE (ST) dated 18.06.2012, which after due process the adjudicating authority sanctioned a partial amount. The appellant preferred an appeal before the First Appellate Authority with a delay of 296 days and the Commissioner (Appeals) vide impugned order No. 84/2020 CTA-II dated 30.09.2020, rejected the same as barred by limitation, without going into the merits.

4. It is the case of the appellant that by virtue of its registration as a Special Economic Zone unit, the provisions of SEZ Act 2005, shall prevail, notwithstanding anything contained in any other law.

5. From the discussions and findings in the impugned order, however, I do not see any discussion by the First Appellate Authority on the above grievance of the appellant vis-à-vis the SEZ Act, 2005. The appellant has in fact taken out all these grounds in its grounds of appeal specifically and, in a nut-shell, it is its contention that since it has fulfilled all the conditions prescribed under the SEZ Notification, its refund claim cannot be rejected on some procedural lapses.

6. In view of the above, the impugned order is set aside and the matter is restored to the file of the First Appellate Authority who shall examine the appellant's claim of being governed by SEZ Act, 2005 vis-à-vis its refund claim including the applicability of limitation in filing the first appeal under the SEZ Act and pass a fresh order in accordance with law. All contentions are left open.

(Operative part of the Order pronounced in the Open Court)

(**P. DINESHA.)**
MEMBER (JUDICIAL)

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