IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. I

Service Tax Appeal No. 40984 of 2019

(Arising out of Orders-in-Appeal No. 572 to 575/2018 (CTA-II) dated 14.12.2018 passed by the Commissioner of G.S.T. and Central Excise (Appeals-II), Newry Towers, 2054/1, II Avenue, 12th Main Road, Anna Nagar, Chennai – 600 040)

M/s. Anantara Solutions Private Limited **: Appellant**
Module No. 0104A, Tidel Park,
4, Canal Road, Taramani,
Chennai – 600 113

VERSUS

The Commissioner of G.S.T. and Central Excise **: Respondent**
Chennai South Commissionerate,
M.H.U. Complex, 692, Anna Salai, Nandanam, Chennai – 600 035

WITH

Service Tax Appeal No. 40985 of 2019

(Arising out of Orders-in-Appeal No. 572 to 575/2018 (CTA-II) dated 14.12.2018 passed by the Commissioner of G.S.T. and Central Excise (Appeals-II), Newry Towers, 2054/1, II Avenue, 12th Main Road, Anna Nagar, Chennai – 600 040)

M/s. Anantara Solutions Private Limited **: Appellant**
Module No. 0104A, Tidel Park,
4, Canal Road, Taramani,
Chennai – 600 113

VERSUS

The Commissioner of G.S.T. and Central Excise **: Respondent**
Chennai South Commissionerate,
M.H.U. Complex, 692, Anna Salai, Nandanam, Chennai – 600 035

APPEARANCE:

Shri N. Viswanathan, Advocate for the Appellant

Shri Arul C. Durairaj, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NOs. 42320-42321 / 2021

DATE OF HEARING: 13.09.2021

DATE OF DECISION: 13.09.2021

Order :

The above appeals arise out of the common impugned Order-in-Appeal and therefore, they are considered for common disposal, for the sake of convenience.

2. Heard Shri N. Viswanathan, Learned Advocate appearing for the appellant and Shri Arul C. Durairaj, Learned Superintendent (Authorized Representative) appearing for the Revenue.

3.1 At the outset, Learned Advocate for the appellant would draw my attention to paragraph 7.1 of the impugned order as to the pleadings of the appellant, as recorded by the Commissioner of G.S.T. and Central Excise (Appeals-II), Chennai, and further submitted that no Show Cause Notice was issued proposing to reject the refund and hence, the appellant was deprived of any opportunity to offer its rebuttal; nor were they able to file any documentary evidences in support.

3.2 He would also draw my attention to paragraph 7.3 of the impugned order wherein the Commissioner (Appeals) himself has held that "… the impugned order having been passed without following the principles of natural justice, the appeals are remanded with the direction to provide opportunity to the appellant to express their defence and furnish documents/invoices wherever necessary for re-examination and decide the issue afresh based on eligibility…". Having remanded the cases to the file of the Original Authority, it is the case of the appellant that the Commissioner (Appeals) should not have gone into the merits of the issue arising out of the Orders-in-Original. Thus, according to the Learned Advocate for the appellant, the findings arrived at by the Commissioner (Appeals) are not sustainable.

4. Having heard both sides, I am of the opinion that the Commissioner (Appeals) having remanded the matter for fresh adjudication after expressing his satisfaction as to the non-following of the principles of *audi alteram partem* by the Adjudicating Authority, should not have expressed any findings on the issues.

5. In view of the above, the impugned order to the above extent is set aside and the cases are remanded to the file of the Adjudicating Authority, who shall pass a *de novo* order after following the principles of natural justice and without being influenced by the impugned order of the Commissioner (Appeals). It goes without saying that the Adjudicating Authority shall afford reasonable opportunities to the appellant in passing the *de novo* order.

6. The appeals are allowed by way of remand.

(Operative part of order pronounced in open court)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

Sdd