

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Single Member Bench
Court - I

APPEAL No. ST/30645/2018

*(Arising out of **Order-in-Appeal** No. HYD-SVTAX-RRC-APP-217-17-18 (APP-I),
dated 21.03.2018 passed by CCCT (Appeals-I), Hyderabad)*

SIGACHI INDUSTRIES PVT. LTD., .. APPELLANT

Vs.

CCT, RANGAREDDY GST .. RESPONDENT

Appearance

Shri R. Narasimha Murthy, Advocate for the Appellant.

Shri V.R. Pawan Kumar, Superintendent /AR for the Respondent.

Coram:

Hon'ble Mr. M.V. Ravindran, MEMBER (JUDICIAL)

Date of Hearing: 04.12.2018

Date of Decision: 04.12.2018

FINAL ORDER No. A/31496/2018

[Order per: Mr. M.V. Ravindran]

1. This appeal is directed against Order-in-Appeal No. HYD-SVTAX-RRC-APP-217-17-18 (APP-I), dated 21.03.2018.
2. Heard both sides and perused the records.
3. On perusal of records, it transpires that the issue is regarding rejection of refund claim of an amount of Rs. 90,593/-. Appellant had filed a refund claim of Rs. 2,78,071/- towards service tax on specified services for various operations in Special Economic Zone and is eligible for refund of

the said amount in terms of Notification No. 12/2013-ST, dated 01.07.2013. Appellant's refund claim was taken up for processing and the adjudicating authority sanctioned the entire refund claim of Rs.2,78,071/-. Aggrieved by such an order, Revenue filed an appeal before the first appellate authority for improper sanctioning of refund claim of Rs. 90,593/- on the plea that service tax was paid by the appellant in the quarters October to December 2016. The first appellate authority, after following due process of law, accepted the contentions and modified the impugned order to hold that appellant is eligible for the refund claim minus Rs. 90,593/-.

4. On careful consideration of the submissions made, I find that there is no dispute as to the fact that appellant is an SEZ unit and claims the refund of service tax paid by service providers under notification No. 12/2013. The said notification provides for procedures to be followed by SEZ units which has been followed by the appellant herein. The only clause which has been sought to be misinterpreted by lower authorities is the clause 'e' of the said notification which reads as under:

“(e) the claim for refund shall be filed within one year from the end of the month in which actual payment of service tax was made by such Developer of SEZ unit to the registered service provider or such extended period as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall permit.”

5. It can be seen from the above reproduced clause 'e' of the notification No. 12/2013-ST, the said clause will not come in the way for

sanctioning of refund claim of Rs. 90,953/-. It is on record and undisputed that appellant had received various services from the service providers during the period July to September 2016. The interpretation of the lower authorities that the clause 'e' would mandate them to file refund claim of Rs. 90,593/- only during the quarters October to December 2016, seems to be totally misplaced. The above reproduced clause only talks about only filing of refund claim within one year from the date of actual payment of service tax made by SEZ Unit to the service provider or any extended period. It does not say anything more than that. In my view, the adjudicating authority was correct in coming to a conclusion that appellant is eligible for refund of an amount of Rs. 90,593/-.

6. The order of the first appellate authority is set aside and appeal is allowed with consequential reliefs, if any.

(Operative portion of the order pronounced in open court on conclusion of hearing)

**(M.V. RAVINDRAN)
MEMBER (JUDICIAL)**