IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 78695 of 2018

(Arising out of Order-in-Appeal No. 402/S.Tax-I/Kol/2018 dated 25.06.2018 passed by Commissioner of CGST & Central Excise (Appeal-I), Kolkata.)

M/s Delta Plus (I) Pvt. Ltd.,
EN-34, 1st, Floor, Sector-V, Salt Lake, Kolkata-700091.

...Appellant

VERSUS

Commissioner of CGST & Central Excise, Kolkata,
180, GST Bhawan, Shantipally, Rajdanga Main Road, Kolkata-700107.

.. ...**Respondent**

APPERANCE :
None, for the Appellant
Shri P. K. Ghosh, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)

FINAL ORDER No…75430/2024

DATE OF HEARING : 06.03.2024
DATE OF DECISION : 06.03.2024

Per R. Muralidhar :

No one has appeared on behalf of the Appellant. In the interest of justice the Appeal was taken up with the help of the Learned Authorized Representative.

2. The appellant is a registered SEZ unit. For the Service Tax paid by them in respect of the services utilized by them during the period April, 2013 to June, 2013, the appellants have filed there refund claim in Rs.56,213/-/-. While filing the refund claim they have stated that they are claiming the refund in terms of Notification No. 12/2013-ST dated 01.07.2013. The Adjudicating Authority after going through the Form A-4 and Form A-1 and the other documentary evidence provided by the

Appellant, sanctioned the refund of Rs.53,970/- and rejected the claim of Rs.2243/-.

3. The Department filed the Appeal before the Commissioner (Appeals). The appellant did not file any appeal for rejected refund claim of Rs.2243/-. The Commissioner (Appeals) vide Order-in-Appeal No. 402/S.Tax-I/Kol/2018 dated 25.06.2018 allowed the Appeal filed Revenue by setting aside the refund granted under the Order-in-Original dated 28.05.2014. Being aggrieved, the appellant is before the Tribunal.

4. I have perused the appeal papers and the relevant Notification with the help of Learned AR.

5. I find that without dispute, the appellant is a registered SEZ unit. They have availed the Services for various input Services. As submitted by them there is no dispute that the appellant is registered SEZ Unit for the authorized operations in Special Economic Zone. It is on record that the Appellant has filed the refund claim duly filing Form A-1, Form A-4 and the submitted the details of Approval of services received in relation to authorized operations in SEZ". They have also filed the original invoices for the services received by them. The Bank Statement showing payment of Service Tax to their service provider has also been enclosed. I find that the Adjudicating Authority has perused the documents and then only granted refund of Rs.53,970/-. When proper documentary evidence was not shown, he rejected the refund claim of Rs.2243/-. The Department has filed the appeal before the Commissioner (Appeals) only ground that the details of "Approval of services received in relation to authorized operation in SEZ", was not

filed. On this ground the Commissioner (Appeals) has set aside the refund granted in the order-in-original.

6. When the Adjudicating Authority has held that the "Approval of Services received in relation to authorized operation SEZ" was gone through by him, I do not see any logical reasons adopted by the Commissioner (Appeals) while allowing the Revenue Appeal.

7. It is also observed that on the same set of facts the appellants had filed their refund claim for the period October, 2012 to March, 2013. The refund was sanctioned without taking the above ground. This shows that they had already placed the details of "Approval of services in relation to authorized operation in SEZ" even in the earlier cases. Considering the detailed findings of the Adjudicating Authority, I do not see any merits in the impugned Order in Appeal. I set aside the same.

8. The appeal is allowed with consequential relief.

(Dictated and pronounced in the open court)

Sd/-
(R. Muralidhar)
Member (Judicial)

Tushar Kr.