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

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.76185 of 2024

(Arising out of Order-in-Appeal No.236/ST-Kol/ST/Kol-S/2024-25 dated 24.07.2024 passed by Commissioner (Appeals I) of CGST & Central Excise, Kolkata)

M/s Rahul Spring Private Limited
(27, Mirza Ghalib Street, 3rd Floor, Kolkata-700016)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Kolkata South
(180, Shantipally, Rajdanga Main Road, Kolkata-700107)

Respondent

WITH

Service Tax Appeal No.76195 of 2024

(Arising out of Order-in-Appeal No.235/ST-Kol/ST/Kol-S/2024-25 dated 24.07.2024 passed by Commissioner (Appeals I) of CGST & Central Excise, Kolkata)

M/s Rahul Spring Private Limited
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Appellant

VERSUS

Commissioner of CGST & Central Excise, Kolkata South
(180, Shantipally, Rajdanga Main Road, Kolkata-700107)

Respondent

APPERANCE :
Shri Ankit Kanodia, Advocate for the Respondent
Shri P.K.Ghosh, Authorized Representative for the Appellant

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.75093-75094/2025

DATE OF HEARING : 20 JANUARY 2025
DATE OF DECISION : 20 JANUARY 2025

Per Ashok Jindal :

The appellant has filed these appeals, which are having common issue, therefore, both are disposed off by a common order.

2. The facts of the case are that during the course of audit, an objection was raised by which a demand of Rs.1,83,19,270/- sought to be demanded from the appellant, which the appellant paid under

protest and thereafter, adjudication took place and vide Order dated 06.01.2022, the Adjudicating Authority confirmed the demand of Rs.13,79,863/-. Rest of the demand was dropped.

2.1 Consequent to the said order, the appellant filed a refund claim of Rs.1,69,39,407/- arising out of consequent of the adjudication order.

2.2 The refund was rejected on the ground that the appeal is pending before the ld.Commissioner (Appeals) against the adjudication order for the amount, which the adjudicating authority has dropped.

2.3 Against the adjudication order, the Revenue preferred an appeal before the ld.Commissioner (Appeals).

2.4 The ld.Commissioner (Appeals) remanded the matter to the adjudicating authority for verification of records regarding demand and availment of cenvat credit to the appellant.

2.5 Consequent to that, an appeal against the refund claim was also remanded on the same ground to the adjudicating authority to consider the issue afresh.

2.6 Against those orders, the appellant files these appeals.

3. Heard both sides and considered the submissions.

4. We find that as the ld.Commissioner (Appeals) without verification of records, casts liability on the adjudicating authority to decide the issue afresh, is not correct. Therefore, by way of this order, we direct the ld.Commissioner (Appeals) to decide the issue on merit after due verification of records, which the appellant shall produce before him. Thereafter, the ld. Commissioner (Appeals) shall pass an appropriate order in accordance with law after verifying the records regarding refund and confirmation of demand against the appellant.

5. It is pertinent of mention here that the ld.Commissioner (Appeals) shall pass the order within two months from the date of receipt of this order and both sides co-operate with the ld.Commissioner (Appeals) for hearing.

6. In view of the above, the appeals are disposed off by way of remand.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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