

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, WEST ZONAL BENCH AT MUMBAI
COURT NO. IV**

APPEAL NO. ST/87983/2018

(Arising out of Order-in-Appeal No. PK/148/ME/2018 dated 05.03.2018 passed by the Commissioner of CGST & Central Excise (Appeals-II), Mumbai.)

M/s Idea Cellular Ltd.

Appellant

Vs.

C.C.G.S.T., Mumbai Central

Respondent

Appearance:

Shri Mehul Jivani, Chartered Accountant

for Appellant

Shri S.B. Mane, Assistant Commissioner (AR) with
Shri Dilip Shinde, Assistant Commissioner (AR)

for Respondent

CORAM:

HON'BLE SHRI AJAY SHARMA, MEMBER (JUDICIAL)

Date of Hearing: 12.12.2018

Date of Decision: 12.12.2018

ORDER NO. A/88118/2018

The instant appeal has been filed from the impugned order dated 5th March, 2018 passed by the Commissioner of CGST & Central Excise (Appeals-II), Mumbai.

2. After going through the records of the case and hearing the submissions of learned Authorised Representative on behalf of Revenue, I find that there is a categorical finding in both the orders

below that the Appellant has failed to produce any documentary proof/evidence to establish their submission that they have made the excess payment. The learned Chartered Accountant appearing on behalf of the Appellant submitted that although Appellants are having the documents to substantiate their claim but since none of the authorities below had asked for the same, therefore they did not produce it and he prayed that one more opportunity may be granted to them so that they will produce all the relevant documents including Chartered Accountant certificate etc. to show that they have made excess payment.

3. The Appellant ought to have submitted all the documents before the Adjudicating Authority in support of its submission of excess payment, but still in view of the submissions made hereinabove, without going into the merits of the matter, I am inclined to give one more opportunity to the Appellant in the interest of justice and remanding the matter to the Adjudicating Authority to decide the matter afresh after hearing the Appellant. The Appellant is directed to produce all the relevant documents, ledger, Chartered Accountant certificate etc. before the Adjudicating Authority.

4. The Appeal is therefore, allowed by way of remand.

(Dictated & pronounced in open Court)

(Ajay Sharma)
Member (Judicial)