

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH – COURT NO.10

Service Tax Appeal No. 87762 of 2018

(Arising out of Order-in-Appeal No. NGP-1/APPL/23/2017-18 dated 09.02.2018 passed by the Commissioner of CGST & CX, Nagpur-I, Raigad)

Ms. Excelize Software Pvt. Ltd.,

.....Appellant

Block No. 11 & 12, STPI,
MIDC Chikalthan, Aurangabad-431201

VERSUS

C.C.E. & S.T., Aurangabad

.....Respondent

N-5, Town Centre,
Aurangabad-431003

APPEARANCE:

Shri Mr. Sumeet Tholle, Chartered Accountant for the Appellant
Shri Mr. Onil Shivdikar, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85697 / 2019

Date of Hearing: 03.04.2019

Date of Decision: 03.04.2019

AJAY SHARMA:

This Appeal has been filed from the impugned order dated 08.02.2018 passed by the Commissioner CGST & CX, Nagpur-I in order-in-appeal no. NGP-I/APPL/23/2017-18 by which the Learned Commissioner is remanded the matter to the lower authority to revert the refund claim.

2. I have heard Learned Chartered Accountant for the Appellant and Learned Authorised Representative for the Revenue and perused the records. The Learned Chartered Accountant submits that his main grievance is that the Learned Commissioner has left very limited

issue to be decided by the Adjudicating authority. He further submitted that had it been a complete remand, he would not have filed this Appeal. He prayed that the impugned order may be modified suitably in order to do complete justice.

3. I find force in the submission made by the Learned Chartered Accountant. It is settled legal principle that justice need not only be done it must also seem to be done. Therefore without going into the merits of the matter, in the interest of the justice I am modifying the order passed by the Learned Commissioner and remanding the matter back to the Adjudicating Authority for de novo adjudication after giving proper opportunity of hearing to the Appellant. Liberty is granted to the Appellant to raise all the contentions before the said authority.

4. The appeal is accordingly disposed off in the above terms.

(Dictated and pronounced in the open Court)

(Ajay Sharma)
Member (Judicial)