

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.88628 of 2018

[Arising out of Order-in-Appeal No.MUM-DGPM-WRU/APP-241-243/17-18,
dt.11.06.2018, passed by the Comm.(Appeals), CGST, Mumbai]

M/s Softline Services India Pvt. Ltd

B 702 & 703, Pinnacle Corporate Park,
Opp. MTNL, Banda Kurla Complex,
Bandra (East), Mumbai 400 051

.....Appellant

VERSUS

Commissioner, CGST, Mumbai

4th Floor, Transport House, Poona Street,
Masjid (East), Mumbai 400 009

.....Respondent

Appearance:

None for the Appellant

Shri S.B. Mane, AC (AR) for the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86267 / 2019

Date of Hearing: 19.07.2019

Date of Decision: 19.07.2019

PER: D.M. MISRA

None present for the Appellant. Heard the learned A.R. for the
Revenue.

2. This is an appeal filed against OIA No.MUM-DGPM-WRU/APP-
241-243/17-18, dt.11.06.2018, passed by the Comm.(Appeals),
CGST, Mumbai.

3. Briefly stated the facts of the case are that the Appellants had filed quarterly refund claims under Rule 5 of CENVAT Credit Rules, 2004, relating to export services. The Adjudicating authority rejected the refund claims for Rs.28,89,550/- for the period October 2015 to December 2015, which were filed on 01.01.2016. Aggrieved by the said order, they filed an appeal before the learned Commissioner (Appeals), along with two other rejected refund claims. On their request, the learned Commissioner (Appeals) has taken all the three appeals together and disposed off the same by way of reminding the matter to the Adjudicating authority to re-adjudicate all the three refund claims afresh after affording an opportunity of hearing to the Appellant. The present appeal relates only to one refund claim i.e. for Rs.28,89,550/- rejected by the Adjudicating authority.

4. The learned A.R. for the Revenue submits that the present appeal is infructuous inasmuch as the learned Commissioner (Appeals) has remanded all the three refund claims to the original Adjudicating authority to decide the same afresh, after providing an opportunity of hearing to the Appellant.

5. I have considered the submissions advanced by the learned A.R. and gone through the records. The learned Commissioner (Appeals) at Para 3.4 of the impugned order analysed the refund claim of Rs.28,89,550/- pertaining to adjudication Order No.453/Refund-I/DK/2016-17, dt.30.12.2016. While remanding all the three refund claims including the one under dispute to the

original Adjudicating authority, the learned Commissioner (Appeals) observed as follows:-

"4.0 In view of my above findings, I set aside all the 3 impugned OIOs and allow the 3 appeals filed by the Appellant by way of remand to the original Adjudicating authority with the direction to re-adjudicate the 3 Refund cases after according of P.H. & perusal of all relevant records. The Appellant is also directed to produce all the relevant documents and appear before the Adjudicating authority as and when called. The appeal is disposed of in above terms."

6. A simple reading of the said direction reveals that all the three refund claims were remanded unconditionally for fresh adjudication by the original Adjudicating authority. The original Adjudicating authority has also been directed to provide an opportunity of hearing to the Appellant.

7. Under these circumstances, I do not find any merit in the present appeal since the refund claim has already been remanded to the Adjudicating authority for fresh decision. Needless to mention that all issues are kept open when the matter is remanded to the original Adjudicating authority for adjudication in the light of the observations of learned Commissioner (Appeals), there is no need to interfere with the said order. In the result, the appeal, being devoid of merit, is dismissed.

(Dictated and pronounced in the open court)

(D.M. Misra)
Member (Judicial)