CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.405

Service Tax Appeal No. 89738 of 2018

(Arising out of Order-in-Appeal No. MKK/214-215/RGD APP/2018-19 dated 21.09.2018 passed by the Commissioner(Appeals), of CGST & CX, Raigarh)

M/s State Street Syntel Services P Ltd ....Appellant
4th 5th Floor Building No. 4 Mindspace
Thane Belapur Road Airoli
Thane, Maharashtra-400708

VERSUS

C.C.G.ST., Navi Mumbai ....Respondent
10th Floor, Satra Plaza, Palm Beach Road,
Sector, 19 D, Vashi, Navi Mumbai
Maharashtra-400705

WITH

Service Tax Appeal No. 89739 of 2018

(Arising out of Order-in-Appeal No. MKK/214-215/RGD APP/2018-19 dated 21.09.2018 passed by the Commissioner(Appeals), of CGST & CX, Raigarh)

M/s State Street Syntel Services P Ltd ....Appellant
4th 5th Floor Building No. 4 Mindspace
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VERSUS

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Sector, 19 D, Vashi, Navi Mumbai
Maharashtra-400705

APPERANCE:

Ms Tejal Patil, Advocate for the Appellant
Shri Dharmendra Singh, Superintendent Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85333-85334/2020

Date of Hearing: 25.09.2019
Date of Decision: 26.02.2020

PER: AJAY SHARMA

These Appeals are arising out of the order dated 21.09.2018 passed by the Commissioner(Appeals), of CGST & CX, Raigarh in Order-in-Appeal No. MKK/214-215/RGD APP/2018-19. Since a common impugned order has been passed by the learned commissioner in two Appeals therefore I am also deciding both the appeals by this common order.

2. The issue involved in these Appeals is whether the appellant is entitled for refund of Swachh Bharat Cess (SBC) paid on the input services used for providing export service?

3. Refund claims of the said Cess was rejected by the Adjudicating Authority on the ground that there is no provision for refund of Swachh Bharat Cess paid on the input services used for providing export service. The learned Commissioner vide impugned order dated 26.9.2018 rejected the Appeals filed by the Appellant holding that refund of Swatch Bharat Cess paid on the input services used for providing export service is not admissible to the Appellant in the absence of any Notification for granting refund of SBC used for Export of Service.

4. I have heard learned counsel for the Appellant and learned Authorised Representative for the Revenue and perused the records of the case. Learned counsel for the Appellant placed on record two orders of this Tribunal in Appellant's own case on identical issue which was decided in their favour by this Tribunal. I have gone

through the same and in my view the issue involved in this appeal is no more res integra in view of the decision of this Tribunal vide Order No. A/85863/2019 dated 9.5.2019 *in Appeal No. ST/88272/2018, State Street Syntel Services Pvt. Ltd. vs. Commr.of Central GST& Central Excise, Mumbai* and Order Nos. 86100-86102/2019 dated 14.6.2019 *in Service Tax Appeal Nos. 88002-88003/2018 & 88012/2018, M/s. State Street Syntel Services Pvt. Ltd. vs. Commr.of CGST, Navi Mumbai* in which this Tribunal while discussing Section 119 of the Finance Act, 2015 and various case laws, by a detailed order allowed the Appeal filed by the Appellants therein and held that the Swachh Bharat Cess paid on input services has to be available as Cenvat Credit and the same can be discharged by utilizing Cenvat Credit and the appellant therein are entitle for refund of it.

5. Since the issue in these appeals has been settled by the aforementioned decisions (supra), therefore following the same and considering the totality of the facts and circumstances of the case, I am setting aside the impugned order by holding that the Appellants are entitled for refund of Swatch Bharat Cess used for Export of Services.

6. In the result, the appeals filed by the appellants are allowed with consequential relief, as per law.

(Order pronounced in the open Court on 26.02.2020)

(Ajay Sharma)
Member (Judicial)

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