CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.405

Service Tax Appeal No. 89420 of 2018

(Arising out of Order-in-Appeal No. NGP/EXCUS/000/APPL/181/17-18 dated 11.07.2017 passed by the Commissioner (Appeals), Central Excise and Customs, Nagpur)

M/s Tal Manufacturing Solutions Limited ....Appellant
Sector 3 Mihan Sex
Village Kalkuhi
Nagpur, Maharashtra
Pincode-440001

VERSUS

C.C.E. & S.T.-NAGPUR ....Respondent
P.O. Box 81,
Telangkhedi Road, Civil Lines,
Nagpur,
Maharashtra-440001

APPERANCE:

Mr. Jay Chedda, Advocate for the Appellant
Mr. Dilip Shinde, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/86705/2021

Date of Hearing: 02.08.2021
Date of Decision: 27.08.2021

PER: AJAY SHARMA

This Appeal has been filed against the order dated 11.07.2017 passed by the Commissioner (Appeals), Central Excise and Customs, Nagpur in Order-in-Appeal No. NGP/EXCUS/000/APPL/181/17-18.

2. The Appellants, a unit in SEZ, engaged in manufacturing of floor beams and its components used in aeroplanes. They filed

refund claim for refund of Service Tax amounting to Rs.3,65,502/- for input services used in manufacture activities in SEZ for the period from April, 2014 to June, 2015 in accordance with Notification No. 12/2013 dated 1.7.2013 but the same was rejected by both the authorities below on two grounds, (i) that the refund of Rs.3,01,997/- of input services invoices is not allowed as the appellants failed to co-relate payment made to vendors through bank statements. In other words, on the grounds that the bank statement qua that claim was not filed. And (ii) the service of Information Technology Software Service not in the approved list of service therefore the amount of refund of Rs.63,505/-was rejected.

3. I have heard learned counsel for the appellants and learned Authorised Representative for the Revenue and perused the case records including the case laws and synopsis filed on behalf of the appellants. Learned Authorised Representative submits that in case of refund, the basic requirement is that the payment has been made; that their conduct is suspicious and that even after 7-8 years the Appellants have not provided the documents. According to learned counsel since the bank statement was very bulky document therefore they did not produce the same before the Adjudicating Authority but instead they produced the abstract of accounting entry software SAP which is appellant’s internal entry system from which the date of payment to the vendor could be ascertained. He further submits that although during personal hearing before the learned Commissioner (Appeals) it was submitted on their behalf to remand the matter before the adjudicating authority so that they can made available the

bank statement, but within one week thereafter i.e. on 13.6.2017 the appellant submitted the correlation of payment of vendors with bank statements, which was acknowledged also by the department at pages 27-28 of the Appeal Paper book before this Tribunal, but the same was not taken into consideration by the learned commissioner (Appeal) at the time of passing of the impugned order dated 11.7.2017 and the refund claim was rejected on the ground that the supporting documents/requisite documentary evidence were not produced by the appellants.

4. Appellant submits that they have made the payment to all the vendors and therefore all the conditions for claim of refund have been fulfilled by them. From the case records it is apparent that the supporting documents were produced, although belatedly, by the appellants before the learned Commissioner but they were not considered by him at the time of passing the impugned order of rejecting the appeal on the ground of non-production of supporting documents. The verification of the documents which was produced by the Appellant before the learned Commissioner alongwith letter dated 13.06.2017 need to be looked into and verified by the lower authorities. The verification of them by the Commissioner (Appeals) may not be proper and these documents can very well be appreciated by the Original Authority. Therefore I am of the view that the matter should be remanded to the original authority for proper verification of these documents and also for *de novo* adjudication.

5. Accordingly, the impugned order is set aside and the matter is remanded to the adjudicating authority for *de novo* adjudication with a direction to pass the order after taking into consideration all the documents and also after giving a reasonable opportunity of hearing to the appellants to present their case. The appellants are also directed to produce all the supporting/requisite documents they wish to rely upon in support of their submissions before the adjudicating authority.

6. The Appeal is therefore allowed by way of remand.

(Order pronounced in the open Court on 27.08.2021)

(Ajay Sharma)
Member (Judicial)

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