# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 86363 of 2019**

(Arising out of Order-in-Appeal No. MKK/486/RGD APP/2018-19 dated 19-02-2019 passed by the Commissioner of CGST & CX (Appeals), Raigad).

**M/s White Crow Research Pvt. Ltd. .... Appellant**
A-101/102, Supreme Business Park,
Behind Lake Castle, Hiranandani Gardens,
Powai Mumbai-400076

Versus

**Commissioner of CGST, Navi Mumbai .... Respondent**
5th Floor, C.G.O. Complex,
CBD Belapur, Navi Mumbai-400614

Appearance:

Shri Neerav Mainkar, Advocate for the Appellant

Shri Vinod Kumar, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)**

**FINAL ORDER NO. A/85979 / 2022**

Date of Hearing: 19.10.2022
Date of Decision: 19.10.2022

***Per: S.K. Mohanty***

Heard both sides and perused the case records.

2. Denial of refund benefit provided under Rule 5 of the CENVAT Credit Rules, 2004 in respect of the taxable input services namely, renting of immovable property and telecommunication service is the subject matter of present dispute. Learned Commissioner (Appeals) has rejected the appeal filed by the appellant mainly on the ground that no

documentary evidences were submitted to support the claim that the benefit of refund should be available to the appellant.

3. Learned Advocate appearing for the appellant drew attention of the Bench to the letter dated 29.01.2019 addressed to the Commissioner (Appeals), stating therein for grant of extension of time for submission of the additional submissions, including the ST-3 returns and other documents. However, on perusal of the records, I find that without considering the said letter of the appellant, learned Commissioner (Appeals) has disposed of the appeal, upholding the adjudication order passed by the original authority. Thus, it is clear that principles of natural justice have been violated inasmuch as without proper consideration of the relevant documents, the appeal of the appellant was rejected. Therefore, I am of the considered opinion that the matter should go back to the Commissioner (Appeals) for fresh decision on merit. The appellant is directed to submit all the relevant documents before the learned Commissioner (Appeals) to decide the issue afresh. Needless to say, that the appellant should be given reasonable opportunity of personal hearing before deciding the appeal on merits.

4. In the result, the appeal is allowed by way of remand.

(Dictated and pronounced in open court)

**(S.K. Mohanty)**
**Member (Judicial)**

Sinha