CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

Service Tax Appeal No. 85238 of 2020

(Arising out of Order-in-Appeal No. PVNS/126/RGD/APP/2019-20 dated 05.11.2019 passed by the Commissioner of Central Tax, Raigad (Appeals)).

WNS Global Services Private Limited. ....Appellant
Mindspaces Building No 14,
1st ,2nd ,3rd Thane Belapur Road,
Kalwa Industrial Area, Navi Mumbai-400708.

VERSUS

Commissioner of Central Tax, Raigad. ....Respondent
5th Floor, CGO Complex, CBD Belapur,
Navi Mumbai-400614.

APPEARANCE:

Shri Rajan Mishra, Advocate for the Appellant
Shri S.B.P.Sinha, Superintendent. Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85006 / 2023

Date of Hearing: 05.01.2023
Date of Decision: 05.01.2023

PER: AJAY SHARMA

This appeal has been filed against the partial rejection of refund claim of Rs.3,75,181/- by Commissioner (Appeals) Commissioner of Central Tax (Appeal) Raigad, vide impugned order dated 05/11/2019

2. Originally the appellant, a SEZ Unit providing output service namely '*Business Auxillary Service*' for exporting outside India, filed the refund claim of Rs. 22,15,175/- for the period April, 2017, to June, 2017. The Adjudicating Authority vide Order-in-Original dated 07/05/2019 sanctioned the refund claim of Rs.16,65,459/- and rejected the remaining claim of Rs.5,49,716/-, against which

the appellant filed the appeal before Commissioner (Appeals) and the impugned order was passed partially allowing the appeal.

3. According to learned Counsel out of rejection of refund claim of Rs.3,75,181/- the major portion i.e. Rs.3,54,696/- has been rejected only on the ground that the invoices were issued in the names of some other units and not addressed to the appellant a SEZ unit. According to learned Counsel the vendors have inadvertedly mentioned other units address instead of the address of SEZ unit and in support of his submission learned Counsel drew my attention to the screenshot of their internal booking system which, according to learned Counsel, establishes that invoices pertains to SEZ unit only. Learned Counsel submits that although the said evidence was produced before the authorities below, but no findings has been given on that submission/evidence by them either accepting or rejecting the same and that erroneous findings has been recorded that there is no evidence to establish that the said services were supplied to SEZ unit. Learned Counsel further submits that had the authorities below gone into evidences produced by the appellant they would not have rejected the claim. Per contra learned Authorised representative appearing on behalf of Revenue reiterated the findings recorded in the impugned order.

4. I have learned Counsel appearing for the appellant and learned Authorised Representative appearing on behalf of Revenue and perused the case records including the written submission. Although I have gone through the same evidence which has been annexed from page 43 to 53 alongwith the appeal but it cannot be verified at this stage. If those were placed on record before the authorities below than the said authorities were under obligation to give finding on the said plea/evidence, one way or the other, but they failed to do so. Since the major portion of the rejected claim is pertains to this head only therefore, without going into the merits of the appeal, I am inclined to remand the matter back to the Adjudicating Authority to decide the issue afresh confining to refund claimed in this Appeal and also

to record a finding about admissibility or otherwise of the evidence placed on record herein by the appellant from page 43 to 53 of the appeal paperbook alongwith another issue of event management service and sponsorship service involving the amount of Rs.19035/-, as for the third issue the learned Counsel submits that he is not contesting the amount of Rs.1450/- which pertains to one invoice which is rejected as time barred by the 1st Appellate Authority.

5. The appeal is therefore, allowed by way of remand. The Appellant is directed to produce all the evidences before the Adjudicating Authority in support of their claim and the said Authority is also directed to decide the issues after giving proper opportunity to the Appellant.

(Dictated and pronounced in open Court)

(Ajay Sharma)
Member (Judicial)

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