CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 85155 of 2020

(Arising out of Order-in-Appeal No. NA/GST/A-I/MUM/72-75/19-20 dated 30.07.2019 passed by the Commissioner of Central Tax (Appeals), Mumbai-I)

M/sQuantum Advisors Private Limited **.... Appellant**
6th Floor, Hoechst House, Nariman Point,
Mumbai – 400021.

Versus

Commissioner of CGST & Central Excise **.... Respondent**
Mumbai South
Air India Building, Mumbai – 400021.

WITH

Service Tax Appeal No. 85156 of 2020

(Arising out of Order-in-Appeal No. NA/GST/A-I/MUM/72-75/19-20 dated 30.07.2019 passed by the Commissioner of Central Tax (Appeals), Mumbai-I)

M/s Quantum Advisors Private Limited **.... Appellant**
6th Floor, Hoechst House, Nariman Point,
Mumbai – 400021.

Versus

Commissioner of CGST & Central Excise **.... Respondent**
Mumbai South
Air India Building, Mumbai – 400021.

AND

Service Tax Appeal No. 85157 of 2020

(Arising out of Order-in-Appeal No. NA/GST/A-I/MUM/72-75/19-20 dated 30.07.2019 passed by the Commissioner of Central Tax (Appeals), Mumbai-I)

M/s Quantum Advisors Private Limited **.... Appellant**
6th Floor, Hoechst House, Nariman Point,
Mumbai – 400021.

Versus

Commissioner of CGST & Central Excise **.... Respondent**
Mumbai South
Air India Building, Mumbai – 400021.

AND

Service Tax Appeal No. 85158 of 2020

(Arising out of Order-in-Appeal No. NA/GST/A-I/MUM/72-75/19-20 dated 30.07.2019 passed by the Commissioner of Central Tax (Appeals), Mumbai-I)

M/s Quantum Advisors Private Limited **.... Appellant**
6th Floor, Hoechst House, Nariman Point,
Mumbai – 400021.

Versus

Commissioner of CGST & Central Excise **.... Respondent**
Mumbai South
Air India Building, Mumbai – 400021.

Appearance:

Shri Sampath Thrumala, Advocate for the Appellant

Shri S. B. P. Sinha, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85285-85288/2023

Date of Hearing: 23.02.2023
Date of Decision: 23.02.2023

Per: Anil G. Shakkarwar

Present four appeals are taken together for decision since they are arising out of a common impugned order Order-in-Appeal.

2. Brief facts of the case are that the appellants are a Portfolio Manager and having Service Tax registration under the category of Banking and Financial Services. For four quarters they filed four applications for refund of unutilized CENVAT Credit under Notification No. 27/2012-CE (NT) dated 18.06.2012 issued under Rule 5 of CENVAT Credit Rules, 2004 since they were not in a position to utilize the left over CENVAT Credit for discharge of duty. Part of their refund claims were allowed and part of the refund claims were rejected stating that the CENVAT Credit in respect of such rejected amounts are not admissible to the appellants. Aggrieved by the said order, the appellant preferred appeal before the Commissioner (Appeals), who allowed some parts and rejected

the remaining parts. After the Order-in-Appeal was partly allowed, the resultant denial of refund of CENVAT Credit is Rs.39,75,048/-. Aggrieved by the said order, appellant is before this Tribunal.

3. Heard the Learned Counsel for the appellant. He has submitted that there was no initiation of proceedings invoking Rule 14 of the CENVAT Credit Rules for denial of availment of CENVAT Credit on the said amount during the normal period of limitation and, therefore, the refund should not have been rejected. He has submitted that the issue is covered by the decision of this Tribunal in the case of M/s M & G Global Services Pvt. Ltd. decided in Service Tax Appeal No. 88086/2019 on 06.02.2023 and reported as 2023-VIL-140-CESTAT-MUM-ST.

4. Learned AR has reiterated the findings of Learned Commissioner (Appeals).

5. I have carefully gone through the records of the case and submissions made. I find that this Tribunal has held as follows in the said case law referred to by the Learned Counsel:-

> *"5. I have carefully gone through the records of the case and submissions made. I find that this issue is no more res integra and the issue is already settled through the above said Final order and the stand taken by the Tribunal was affirmed by the Hon'ble High Court of Hyderabad. When the CENVAT Credit is availed by the assessee so long as the same has not been recovered by proceedings initiated by invocation of Rule 14 of CENVAT Credit Rules 2004, such credit remains on the books of accounts of the assessee and he can utilize the same in the manner provided by law. In the present case, the appellants had exported the services and, therefore, were eligible for refund of unutilized CENVAT Credit. I therefore, hold that the appellants were entitled for refund of Rs.23,73,694 claimed by them for the period from April 2016 to March 2017. I, therefore, set aside the impugned order and allow both the appeals. The appellants shall be entitled for the consequential relief, as per law."*

6. I find that there was no initiation of proceedings to recover alleged inadmissible CENVAT Credit by invocation of provisions of Rule 14 of CENVAT Credit Rules, 2004 in the present case. Therefore, by following the precedent decision, I hold that the appellants were entitled for the refund of CENVAT Credit which was rejected to them.

7. In above terms, all the four appeals are allowed. The appellants shall be entitled for consequential relief, in accordance with the law.

(Order pronounced and dictated in open court)

(Anil G. Shakkarwar)
Member (Technical)

Sinha