CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH, MUMBAI

Service Tax Appeal No. 87762 of 2019

(Arising out of Order-in-Appeal No.NSK/EXCUS/000/APPL/81/2019-20 dated 04.07.2019passed by the CGST & Central Excise (Appeals), Nashik)

M/s. Technoforce Solutions (I) Pvt. Ltd. ....Appellant
D-33/34/35 MIDC Industrial Area,
Ambad, Nashik, Maharashtra – 422 008.

VERSUS

Commissioner of Central Excise ....Respondent
& Service Tax, Nashik
Plot No. 155, Sector P-34, NH, Jaistha – Vaishakh,
CIDCO, Nashik – 422 008

Apperance :

Ms. Mansi Patil, Advocate for the Appellant
Shri Prabhakar Sharma, Supdt., Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85652/2023

Date of Hearing: 11.04.2023
Date of Decision: 11.04.2023

The appellant has filed a claim for refund of Service Tax amounting to Rs.16,77,186/-. The issue before Revenue for the processing of said claim for refund was whether the services were exported or not and whether the activities were satisfying the provisions of Export of Service Rules, 2005. Learned Commissioner (Appeals) through the impugned order has rejected the appellant's appeal before him. Aggrieved by the said order, the appellant is before this Tribunal.

2. Heard the learned Counsel for the Appellant. The learned Counsel for the Appellant has submitted that the export was in the form of uploading of designs, drawing and process detail to an Italian Company and such uploading was for a consideration of around 46,400 Euros. Uploading of such material for a consideration was export of service. The learned Counsel has submitted that the personal hearing was held on 13.06.2019 before the Learned Commissioner (Appeals) and it was assured by the Appellant to the learned Commissioner (Appeals) that Appellant should provide a full log of interactivity with the given customer in connection with supply of service / engineering, drawings and termination work thereto within a period of two days from the date of hearing. Accordingly, on 14.06.2019, the appellant submitted a log of communication with their overseas customer through their Project Tracking Tool - Project-Track - TFS. The details run into few pages. The learned Counsel submits that electronically transmission of the technical data was provisions of export of service and it was brought to the notice of the learned Commissioner (Appeals) and that the learned Commissioner (Appeals) has not taken cognizance of the same, while passing the impugned order.

3. Learned AR supported the impugned order.

4. I have carefully gone through the records of the case and submissions made by both sides. I have gone through the discussions and findings in the impugned order. I could not find any discussions and findings recorded by the learned Commissioner

(Appeals) dealing with appellant's said submission before him dated 14.06.2019. I, therefore, find it appropriate to remand the matter to the learned Commissioner (Appeals), who shall take into consideration *inter alia* submissions dated 14.06.2019 and after giving opportunity to the appellant to present their case decide the matter afresh. For the said reason, the impugned order is set aside.

5. Appeal is allowed by way of remand.

(Dictated & pronounced in open Court)

(Anil G. Shakkarwar)
Member (Technical)

Sujeet