CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 85073 of 2021

(Arising out of Order-in-Appeal No. SM/202/Appeals-II/ME/2020 dated 27.08.2020 passed by the Commissioner of CGST & Central Tax (Appeals), Mumbai)

M/s Vitamins Direct Services Pvt. Ltd. .... **Appellant**
301 3rd Floor, Opus Park, Opp. Seepz, Main Gate MIDC
Andheri East, Mumbai – 400093.

Versus

Commissioner of CGST and Central Excise- Mumbai East .... **Respondent**
9th Floor, Lotus, Infocentre, Parel East, Mumbai-400012.

Appearance:

Shri Tanmay M. Phadke, Advocate for the Appellant

Shri Vinod Kumar, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85653/2023

Date of Hearing: 12.04.2023
Date of Decision: 12.04.2023

Per: Anil G. Shakkarwar

The appellants are providers of export services. They filed two refund claims of CENVAT Credit accumulated under Notification No. 27/2012-CE dated 18.06.2012. The original authority allowed the refund. Aggrieved by the said order, Revenue preferred an appeal before the learned Commissioner (Appeals). The contention of Revenue was that the part of the refund claim was hit by limitation as per amendment No. 14/2016-CE dated 01.03.2016 to Notification No. 27/2012-CE dated 18.06.2012. In response to the same, the learned Commissioner (Appeals) passed the impugned order. Aggrieved by the said order appellant is before this Tribunal.

2. Heard the learned Counsel for the appellant. The appellant has submitted that the learned Commissioner (Appeals) has decided the issue on such basis which was not a ground raised by Revenue. He has further submitted that the appellant was not put on notice on the ground, on the basis of which learned Commissioner (Appeals) passed the impugned order.

3. Learned AR agrees to the same.

4. Since both sides agree that the grounds of appeal raised by the Revenue before the learned Commissioner (Appeals) were not the basis for passing the impugned order, I hold that impugned order is not sustainable. I, therefore, remand the matter to learned Commissioner (Appeals) to decide appeal afresh by giving opportunity to the appellant to be heard taking into consideration the grounds raised by him before the learned Commissioner (Appeals).

5. In above terms, the appeal is allowed by way of remand.

(Order dictated and pronounced in open court)

(Anil G. Shakkarwar)
Member (Technical)

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