IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI
COURT NO. IV

APPEAL NO. ST/86648/2018

(Arising out of Order-in-Appeal No. MMK/459/RGD/APP/2017 dated 25.01.2018 passed by the Commissioner of Central Tax, Central Excise & Service Tax, (Appeals), Raigarh, Navi Mumbai.)

M/s WNS Global Services Pvt. Ltd. Appellant

Vs.

Commissioner of CGST, Navi Mumbai Respondent

Appearance:

Shri Mihir Deshmukh, Advocate for Appellant
Shri O.M. Shivdikar, Assistant Commissioner (AR) for Respondent

CORAM:

HON'BLE SHRI AJAY SHARMA, MEMBER (JUDICIAL)

Date of Hearing: 14.11.2018
Date of Decision: 09.01.2019

ORDER NO. A/85038/2019

This appeal has been filed from the Order-in-Appeal No. MMK/459/RGD/APP/2017 dated 25.01.2018. The issue to be decided in this appeal is whether the Appellant is entitle for refund of Service Tax as per the Notification No. 40/2012-ST dated 20.06.2012.

2. I have heard learned Counsel for the Appellant and learned Authorised Representative for the Revenue and perused the records.

3. Learned Counsel for the Appellant submitted that they have produced the certificate dated 30th July, 2013 issued by the Chartered Accountant in support of their claim that their man power recruitment services were supplied to SEZ unit only and therefore they are entitle for refund of Service Tax as per Notification No. 40/2012-ST dated 20.06.2012 but the same was brushed aside by the Adjudicating Authority and on appeal the learned Commissioner without looking into the said certificate erred in giving the finding that there is no evidence that the Appellant's 'man power services' were supplied to SEZ unit only. He further submitted that since the Commissioner (Appeals) has not given any finding on the Chartered Accountant's certificate, therefore the matter may be remanded back to the Commissioner (Appeals) to decide the appeal afresh in light of the certificate issued by the Chartered Accountant. The learned Authorised Representative appearing on behalf of the Revenue did not dispute the fact that no finding had been recorded by the learned Commissioner about the certificate issued by the Chartered Accountant.

4. In view of the facts mentioned hereinabove, without going into the merits of the matter, I am inclined to set aside the impugned order and remand the matter back to the learned Commissioner (Appeals) to decide the matter afresh after giving an opportunity of

hearing to the Appellant and more particularly after taking into consideration the certificate issued by the Chartered Accountant.

5. The Appeal is therefore, allowed by way of remand.

(Pronounced in Court on 09.01.2019)

(Ajay Sharma)
Member (Judicial)

Prasad