# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
## <u>MUMBAI</u>

WEST ZONAL BENCH, MUMBAI

**Service Tax Appeal No. 85158 of 2021**

[Arising out of Order-in-Appeal No. CJK/GST/A-1/MUM/07/20-21 dated 29.05.2020 passed by the Commissioner of GST & Central Excise (Appeals-I), Mumbai.]

**M/s Deutsche CIB Centre Private Limited** ........Appellant
**Block B7, 3rd Floor,**
**Nirlon Knowledge Park,**
**Western Express Highway,**
**Goregaon (East), Maharashtra – 400 063**

*VERSUS*

**Commissioner of CGST & Central Excise, Mumbai East** ........Respondent
**9th Floor, Lotus, Parel, Lotus Infocentre,**
**Near Parel Station, Parel East, Mumbai – 400 012**

**<u>APPERANCE:</u>**

Shri Sushant Murthy, Advocate for the Appellant
Shri S.B.P. Sinha, Superintendent, Authorised Representative for the Respondent

CORAM:

**HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)**

**FINAL ORDER NO. 86311/2025**

Date of Hearing: 20.08.2025
Date of Decision: 20.08.2025

Both sides are heard on this appeal No. ST/85158/2021.

2. Learned Counsel for the Appellant submits that Appellant had exported services and sought for refund of accumulated unutilised credit through refund application dated 29.03.2012 and 25.09.2012, which were partly allowed and partly rejected by the Refund Sanctioning Authority vide his order dated 13.02.2013 and 28.05.2013 respectively but without interest being granted in both those refunds,

against which Appellant had preferred appeal before the Commissioner (Appeals), who allowed a major part of refund barring few, in which Appellant could not provide documentary proof to establish nexus between the inputs and outputs and remanded the matter back for computation for necessary payment *vide* his order dated 27.02.2017 in both those refund applications. He further submits that Appellant was not hear anything concerning computation of the required refund amount not receive any amount from the concerned Commissionerate for about two years, after which he had requested in writing to the Assistant Commissioner of CGST and Central Tax, Mumbai – 400 012 *vide* his letter dated 14.01.2019 to grant them necessary refund but the Refund Sanctioning Authority namely Assistant Commissioner of CGST and Central Tax, Mumbai had treated the same as a new refund application and rejected the refund in its totality on the ground that refund was sought after the period of limitation was over, against which Appellant had preferred appeal unsuccessfully before the Commissioner (Appeals) and approached this forum for necessary relief against the order of confirmation of rejection of refund passed by the Commissioner (Appeals).

3. Learned Authorised Representative admits the factual submissions as correct but he has argued in favour of the reasoning and rationality of the order passed by the Commissioner (Appeals).

4. I have gone through the appeal paper book and the order passed by the Commissioner (Appeals) on dated 27.02.2017, in the first round of litigation the operating portion of which reads as under:

> *"16. In view of the foregoing findings, the respective impugned Orders are modified to the following extent:*
> *(i) The credit in respect of input services where nexus could not be established in absence of documentary evidence, is rejected and where held to have nexus is upheld as discussed above in this order.*
> *(ii) The adjudicating authority shall re-calculate the admissible amount of refund after*

> *considering the FIRCs submitted by the appellant, the invoices pertaining to before export, and sanction the differential amount of refund if eligible as discussed in this order above."*

Taking note of the above direction, the Adjudicating Authority should have only computed the amount of refund that is to be rejected for non-establishment of nexus and his action in accepting request letter as a fresh refund application without complying with the direction given in the order passed by the Commissioner (Appeals) on dated 27.02.2017 is an irregularity that is not remediable since the proceeding itself can be considered as non est in the eye of law and confirming the same order passed on the basis of a request letter, for compliance of order, by the subsequent Commissioner (Appeals), whose order dated 29.05.2020 is assailed in this appeal, is again an irregularity that is required to be remediated only by setting aside the order and I do so. Hence the order.

THE ORDER

5. The appeal is allowed and the order passed by the Commissioner of GST & Central Excise (Appeals-I), Mumbai *vide* Order-in-Appeal No. CJK/GST/A-1/MUM/07/20-21 dated 29.05.2020 is hereby set aside with a direction to the Refund Sanctioning Authority namely the Assistance Commissioner of CGST and Central Tax, Mumbai to carry out the order passed by the Commissioner (Appeals) on 27.02.2017 in the first round of litigation without further delay and to make payment of the refund amount with applicable interest as per law within a period of two months of receipt of this order.

(Dictated & pronounced in open Court)

**(Dr. Suvendu Kumar Pati)**
**Member (Judicial)**

*Prasad*