



आयुक्त (अपील) का कार्यालय
Office of the Commissioner (Appeals)
केंद्रीय जीएसटी अपील आयुक्तालय - अहमदाबाद
Central GST Appeal Commissionerate- Ahmedabad
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015



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स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/583/2020 / 1256 T a 1218
- ख अपील आदेश संख्या Order-In-Appeal No. **AHM-EXCUS-001-APP-84/2020-21**
दिनांक Date : 30.03.2021 जारी करने की तारीख Date of Issue : 26.04.2021
आयुक्त (अपील) द्वारा पारित
Passed by **Shri Akhilesh Kumar, Commissioner (Appeals)**
- ग Arising out of Orders-in-Original No. CGST-VI/Ref-15/MS Khurana/DC/DRS/
2020-21 dated 22.06.2020 passed by the Deputy Commissioner, Central GST
Division-VI, Ahmedabad South Commissionerate.
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant

M/s M.S. Khurana Engineering Ltd.,
2nd Floor, MSK House,
Panjrapole Road, Ambawadi,
Ahmedabad.

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :

Revision application to Government of India :

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रकिया के दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.



- (क) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।
- (A) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.
- (ख) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।
- (B) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हों।

- (c) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.
- (1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section. 35-EE of CEA, 1944, under Major Head of Account.

- (2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-

Appeal to Custom, Excise, & Service Tax Appellate Tribunal:

- (1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ एवं वित्त अधिनियम, 1994 की धारा 86 के अंतर्गत के अंतर्गत:-

Under Section 35B/ 35E of Central Excise Act, 1944 or Under Section 86 of the Finance Act, 1994 an appeal lies to :-

- (क) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद -380004
- (a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad : 380004. in case of appeals other than as mentioned in para-2(i) (a) above.



(2) The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूचि-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjudicating authority shall bear a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contained in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग" (Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



ORDER-IN-APPEAL

This order arises on account of an appeal filed by M/s M.S. Khurana Engineering Ltd., 2nd Floor, MSK House, Panjrapole Road, Ambawadi, Ahmedabad (hereinafter referred to as the '*appellant*'), against Order-In-Original No.CGST-VI/Ref-15/MS Khurana/DC/DRS/2020-21 dated 22.06.2020 (hereinafter referred as "*impugned order*") passed by the Deputy Commissioner, Central GST, Division-VI, Ahmedabad South Commissionerate (hereinafter referred to as the "*adjudicating authority*").

2. Briefly stated, the facts of the case are that the appellant was engaged in providing taxable services viz. Commercial and Industrial Construction Services and was holding Service Tax Registration No.AABCM4514FST001 with the erstwhile Service Tax Commissionerate, Ahmedabad. On the basis of Hon'ble CESTAT, Ahmedabad Order No.A/10246/2020 dated 24.01.2020, the appellant had filed a refund claim for an amount of Rs.36,61,510/- as refund of pre-deposit vide their letter dated 03.03.2020, which was rejected by the adjudicating authority vide the impugned order. The facts and circumstances leading to the claim of refund by the appellant are narrated in subsequent paragraph.

2.1 An investigation conducted by the Directorate General of Central Excise Intelligence, Ahmedabad Zonal Unit against the appellant revealed that they had not paid Service Tax correctly on the Commercial and Industrial Construction services provided to M/s GPT Steel Industries Pvt. Ltd., Mumbai (hereinafter referred to as 'GPT' for the sake of brevity) for the construction of their factory at Gandhidham (Kutch). It was observed that during the period from October, 2004 to September, 2005, the appellant had received an amount of Rs.3,30,43,354/- from GPT but paid only Rs.67,320/- against their tax liability of Rs.11,12,239/- resulting into short payment of service tax to the tune of Rs.10,44,919/-. Further, it also appeared that the appellant did not pay any service tax for the materials received free of cost valued at Rs.10,87,79,256/- which resulted into non-payment of service tax to the tune of Rs.36,61,510/-. Therefore, a Show Cause Notice F.No.DGCEI/AZU/12 (4) 22/ 2005 Pt.VI dated 12.03.2007 was issued to the appellant for recovery of service tax short paid / not paid by them as discussed above.

2.2 The said Show Cause Notice dated 12.03.2007 was adjudicated vide Order-in-Original (OIO) No.STC/11/ADDL.COMM./2008 dated 21.04.2008 issued by the Additional Commissioner, Service Tax (O&A), Ahmedabad wherein he had confirmed the demand of Service Tax amounting to Rs.47,06,429/- and appropriated the same amount paid by the appellant during the course of investigation towards their total service tax liability and ordered recovery of interest under Section 75 of the Finance Act, 1994 at appropriate rate on the said demand confirmed and imposed penalties under Section 76 and 78 of the Act *ibid*.



2.3 Being aggrieved with the said OIO dated 21.04.2008, the appellant had preferred an appeal before the Commissioner (Appeals), Ahmedabad who vide Order-in-Appeal (OIA) No.149/ 2009(STC)/LMR/Commr.(A)/Ahd. dated 05.05.2009, issued on 14.05.2009, had upheld the impugned order passed by the adjudicating authority and rejected the appeal filed by the appellant.

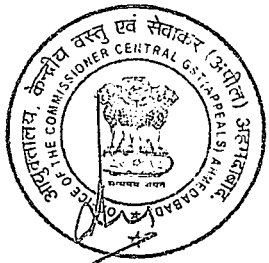
2.4 The appellant had carried the matter further before the Hon'ble CESTAT, Ahmedabad by filing an appeal against the above said OIA dated 05.05.2009. The Hon'ble CESTAT vide their Order No.A/10246/2020 dated 24.01.2020 has allowed the appeal by way of remand to the adjudicating authority.

2.5 Based on the above order of the Hon'ble CESTAT, the appellant has filed the refund claim under dispute on the ground that as the Hon'ble Tribunal has remanded the matter to the adjudicating authority for fresh adjudication, they are eligible for refund of the amount deposited by them during the course of investigation being pre-deposit paid by them in terms of Section 35 of the Central Excise Act, 1944 (hereinafter referred to as 'CEA' for the sake of brevity). The said refund claim filed by the appellant was rejected by the adjudicating authority vide the impugned order by observing that the amount under dispute for which refund claim is filed by the appellant, was in the nature of service tax and hence cannot be considered to be akin to or in the nature of pre-deposit as contemplated under Section 35 of the CEA. Secondly there is nothing on record to establish that the appellant had paid the amount in question under protest and hence the period of limitation prescribed under Section 11B of the CEA would apply in the case by reason of which the refund claim filed by the appellant in the instant case is hit by limitation being filed after the specified period of limitation under the statute and that the appellant had also not submitted that they have not passed on duty to another person.

3. Being aggrieved with the impugned order, the appellant preferred the present appeal on the following grounds:

- (i) The department has not issued any SCN & Query Memo, so the rejection of refund claim without issuing any SCN is not justifiable and tenable. They rely on the case laws in the case of (i) Monarch Catalyst Pvt. Ltd. Vs. Commissioner of Central Excise, Thane-I [2015 (37) STR 1021 (Tri.-Mumbai)] and (ii) Kanji Shavji Parekh (Cal) P. Ltd. Vs. Appraiser, Cus., Postal Appraising Deptt. [2010 (262) ELT 83 (Cal.)] in support of their contention; and
- (ii) When OIO has been set aside by the CESTAT, remanded matter to the original authority in the case, then pre-deposited amount has been treated as deposit and refundable to the appellant. They rely on the following case laws in support of their contention:

- (a) Voltas Ltd. Vs. Union of India [1999 (112) ELT 34 (Del.)];
- (b) Afcons Infrastructure Ltd. Vs. Union of India [2007 (7) STR 615 (A.P.)];



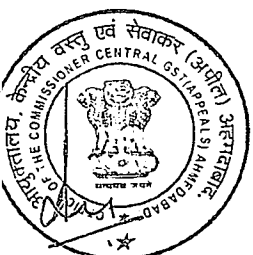
- (c) Varsha Polymer Products Pvt. Ltd. Vs. Commissioner of Cus., Kandla [2014 (301) ELT 128 (Tri.-Ahmd.)];
- (d) Nissan Copper Ltd. Vs. Commissioner of Central Excise & S.T., Vapi [2015 (329) ELT 843 (Tri.-Ahmd.)];
- (e) Commissioner of Central Excise, Chandigarh-I Vs. Modi Oil & General Mills [2007 (210) ELT 342 (P&H)]; and
- (f) K.S. Steel Works Vs. Union of India [1996 (83) ELT 29 (All.)].

4. Personal hearing in the matter was held on 20.01.2021 through virtual mode. S/Shri Vipul Khandhar, Chartered Accountant, and Pawan K. Maheshwari, appeared on behalf of the appellant for hearing. Shri Vipul Khandhar, Chartered Accountant reiterated the submissions made in the appeal memorandum for consideration.

5. I have carefully gone through the facts of the case and submissions made by the appellant in the Appeal Memorandum and oral submissions made at the time of personal hearing. The issue to be decided in the case is whether in view of Hon'ble Tribunal's Order allowing the appeal of the appellant by way of remand to the original authority for denovo consideration, in the context of demand of service tax confirmed against them, their claim for refund of amount deposited by them during the course of investigation is admissible to them or not. It is the contention of the appellant that the amount paid/pre-deposited by them during the course of investigation has to be treated as deposit and they are eligible for refund of the said amount as the Order confirming demand in the case was set aside by the Hon'ble Tribunal and their appeal in the matter was allowed by remanding the matter to the original adjudicating authority. The adjudicating authority on the other hand has observed that the amount under dispute was paid by the appellant during the course of investigation against them and prior to issuance of Show Cause Notice without any protest and that therefore, the said amount paid was not a pre-deposit as contemplated under Section 35 of the CEA as contended by the appellant.

6. It is observed that the claim for refund of the appellant in the present case merely lies on their premise that the amount paid during the course of investigation is in the nature of pre-deposit and hence is liable for refund once the demand confirmed in the case was set aside by the Hon'ble Tribunal. In this regard, I find that the issue as to whether the amounts paid during the course of investigation of a case would amount to deposit or otherwise was considered by the Hon'ble CESTAT, WZB, Ahmedabad in their decision vide Order No. A/11311/2018-WZB/AHD dated 26.06.2018, in the case of M/s. Ratnamani Metals & Tubes Ltd. wherein they had held that:

"As regard, the deposit made during the investigation it is obvious that there is no provision in Central Excise or to make a deposit. Whatever payment made it is towards the probable Excise duty liability for which the investigation is undergoing, therefore it cannot be said that any deposit made during the investigation so made by the assessee is not a duty



but only a deposit. Once the adjudication authority confirms the demand the said amount stands confirmed as duty only, the same being the duty stands appropriate against the demand confirmed in the adjudication order. For this reason also the amount even though that paid during the investigation, shall be considered as payment of duty. When this be so the refund of such duty amount is clearly governed by the Section 11B of Central Excise Act, 1944."

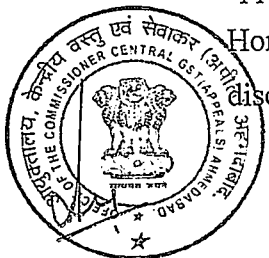
6.1 The Hon'ble High Court of Gujarat in case of Ajni Interiors Versus Union of India [Special Civil Application No. 10435 of 2018] considered the similar issue and passed an order on 04.09.2019 wherein it was held that *"in our view, it is clear that on appeal being allowed quashing and setting aside the order of the Authority imposing duty, the petitioner has to apply for refund in accordance with the provisions under the Act."* The Hon'ble Court has further observed that :

22. *In our view, the scope for claim of refund is strictly governed by Section 11B of the Act and though in past, there were some judicial pronouncements widening the scope of claim of refund after Supreme Court elaborated reasonings in the case of Mafatlal (supra), there remains hardly any scope for judicial intervention to enlarge it further than what is permissible.*

The claim of refund and time limit prescribed, therefore, has an avowed aim of attaching finality to the government receipt. Hence, before making any order or direction, affecting it or seeking any writ resulting in refund, the claimant has to make out an extraordinary case not covered by the decision of the Supreme Court in the case of Mafatlal (supra).

23. *In view of the clear pronouncement of law by the Constitution Bench of the Supreme Court with regard to refund claim, precedents relied on by the petitioner are not applicable as they are not on the issue directly covering the field since the payment is made by the petitioner voluntarily during the course of investigation towards Central Excise Duty, in Form No. TR-6, without any protest and refund claim is also not filed in the prescribed form, that too, within a period of limitation as prescribed along with an affidavit stating that petitioner has not passed on duty to another person, this petition is liable to be rejected."*

6.2 In view of the above judicial pronouncements, the contention raised by the appellant that the amount paid by them during the course of investigation would be in the nature of deposit is not tenable in the eyes of law. The above mentioned judgements of the Hon'ble High Court of Gujarat and the Hon'ble Tribunal, Ahmedabd are later judgements on the issue *vis-a-vis* the case laws relied upon by the appellant. Therefore, being later judgments on the issue, the said judgments take precedence over the earlier ones relied on by the appellant. Further, these are judicial pronouncements of jurisdictional Tribunal as well as of Hon'ble High Court and is therefore binding in nature in view of principles of judicial discipline.



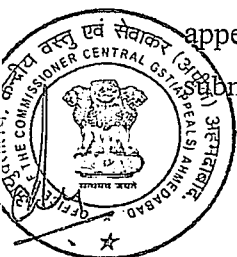
6.3 When it is held that the amount paid during the course of investigation would be in the nature of duty only, the refund of any such amount paid would be governed by the provisions of Section 11B of the CEA as has been held categorically in the above discussed judicial pronouncements. Similar view was expressed by the Hon'ble Tribunal, Ahmedabad in a subsequent decision rendered by them vide Order No. A/10859 /2020 dated 18.03.2020 issued in the case of M/s Comexx, Ahmedabad, wherein it is held that:

"In the aforesaid circumstances, we find that the decisions relied on by the appellant in his support were passed without appreciating the decision of Hon'ble Apex Court in the case of Doaba Co-operative Sugar Mills (supra) and in the case of Mafatlal Industries Limited vs. UOI – 1997 (89) ELT 247(SC). In both these decisions it has been categorically held that refund under Central Excise Act would be governed by Section 11B. In these circumstances, we find that the refund claim filed by the appellant would be governed by the provisions of limitation prescribed under Section 11B of Central Excise Act, 1944. Since the refund was filed after expiry of limitation the same cannot be entertained."

7. In view of the above discussions, it is held that the refund claimed by the appellant in the present case for the amount paid by them during the course of investigation would be subjected to the provisions of Section 11B of the CEA as has been rightly held by the adjudicating authority. Therefore, I do not find any reason to interfere with the decision of the adjudicating authority in the matter.

8. Further, it is pertinent to observe that the Hon'ble CESTAT vide their Order No.A/10246/2020 dated 24.01.2020 while setting aside the order appealed against has remanded the matter to the original authority for deciding the case afresh. As such, the main dispute appealed before the Hon'ble Tribunal was not decided finally in favour of the appellant but was still pending for adjudication under denovo proceeding before the original authority at the time of filing of the refund claim under dispute in the present case. Therefore, any claim for refund of the amount paid during the course of investigation in the case, if any if at all, would arise, subject to provisions of Section 11B of the CEA, only when the main dispute of taxability in the case finally stand settled in favour of the appellant, which is not the case here as at the time of filing of the present refund claim, as the main dispute was pending for decision before the original authority. Thus, the claim for refund preferred by the appellant in the case is premature on that count and is hence liable to be dismissed.

9. With regard to the plea of the appellant on violation of principles of natural justice in the impugned order, I find that the appellant has been given opportunity of personal hearing on 18.05.2020 which as per request of the appellant was rescheduled on 11.06.2020 and the appellant had attended the hearing granted on 11.06.2020 wherein after submitting oral submissions, they wanted to submit a written submission within a week which was allowed



and the appellant had filed written submission vide their letter dated 19.06.2020. The said submission made by the appellant was taken on records, as is evident from para 8.1 of the impugned order. It is seen that the same grounds raised in the present appeal were also raised by the appellant before the adjudicating authority. Therefore, from the said facts, it is clear that the appellant was granted hearing by the adjudicating authority before deciding the issue, even though no show cause notice was issued. As the appellant was properly heard before deciding the issue, the principles of natural justice have been followed in the matter by the adjudicating authority. It is not the case of appellant that their submissions in the matter was not heard or considered. Therefore, the appellant's contention that the impugned order is in violation of principles of natural justice, is devoid of any merit. Further, it is observed that the appellant, in their present appeal, has only reiterated the submissions made by them before the adjudicating authority and has not made any submissions challenging the findings of the adjudicating authority in deciding the issue.

10. In view of the above discussions, the appeal filed by the appellant in the case is rejected for being devoid of merits and the impugned order is upheld.

13. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

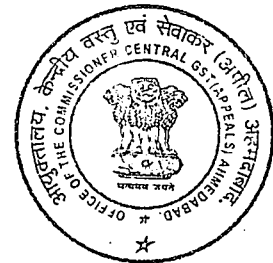
The appeal filed by the appellant stands disposed off in above terms.

Akhil Kumar
 30 March, 2021
 (Akhil Kumar)
 Commissioner (Appeals)
 Date: 30.03.2021.

Attested

Anilkumar P.

(Anilkumar P.)
 Superintendent (Appeals),
 CGST, Ahmedabad.



BY R.P.A.D. / SPEED POST TO :

To

M/s M.S. Khurana Engineering Ltd.,
 2nd Floor, MSK House,
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Copy To:-

1. The Chief Commissioner, CGST & Central Excise, Ahmedabad Zone .
2. The Principal Commissioner, CGST & Central Excise, Ahmedabad-South.
3. The Assistant/Deputy Commissioner, CGST & Central Excise, Division-VI, Ahmedabad South.

4. The Assistant Commissioner (System), CGST HQ, Ahmedabad South.
(for uploading the OIA)

✓ 5. Guard file

6. P.A. File

