

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.75238 of 2016

(Arising out of Order-in-Original No.18/COMMR/ST-I/Kol/2015-16 dated 07.12.2015 passed by Principal Commissioner, Service Tax-I, Kolkata.)

M/s. Sun Knowledge Pvt.Ltd.

(GN-34/2, Ashram Building, 4th Floor, Salt Lake, Sector-V, Kolkata-700091.)

...Appellant

VERSUS

Commissioner of Service Tax-I, Kolkata

.....Respondent

(GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.)

APPEARANCE

Shri Monoshij Sarkar, Director and Shri Kamal Kejriwal, DGM (F & A) for the Appellant (s)

Shri P.K.Ghosh, Authorized Representative for the Revenue

**CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)**

FINAL ORDER NO. 77071/2024

DATE OF HEARING : 17.09.2024

DATE OF DECISION : 27.09.2024

Per : R. MURALIDHAR :

The appellants are 100% Export Oriented Undertaking registered with Software Technology Parks of India (STPI) Kolkata, engaged in providing services in the category of Information Technology Software Services, holding Service Tax registration certificate no. AAOCS2113DSD001. After verification the Department found that the Appellant had incurred expenditure in foreign currency towards consultancy charges, database usage and they have also paid royalty/management/consultancy fee for receiving such services from

outside India. As per Revenue, this would be covered under "import of Services" under Section 66A of the Finance Act,1994 read with Taxation of Services (Provided from outside India and received in India) Rules 2006. A Show Cause Notice was issued on 23.10.2013, by invoking the extended period provisions, for the period 2008-09 to 2011-12, demanding Service Tax amounting to Rs.1,84,64,342. The appellants made their submissions questioning the quantification and provided documentary evidence towards their defence and submitted that they are not required to pay the demanded amount. After due process, the Adjudicating authority dropped the demand to the extent of Rs.57,17,640 and confirmed the balance demand of Rs.1,27,46,702. Being aggrieved, the appellant is before the Tribunal.

2. The Director of the company, appearing on behalf of the appellant submits that the details of Show Cause Notice for year-wise the service-wise demands are as per the following tables :

Year	USD	Rs.	Rate of Tax	S.Tax.	E.Cess	She Cess	Total
2008-09	-	-	12%	-	-	-	-
2009-10	2536385	113951297	10%	11395130	227903	113951	11736984
2010-11	832664	37558595	10%	3755860	75118	37559	3868537
2011-12	622500	27755532	10%	2775553	55512	27756	2858821
Total	3991549	179265424		17926543	358533	179266	18464342

Year	Calculation Sheet as per information available in show cause notice								Total USD	Total INR
	Database Usage Charges		Reimbursement of Marketing expenses		Legal Consultancy Fees		Salary			
	USD	INR	USD	INR	USD	INR	USD	INR		
2009-10	2490000	111788550	35552	1674193	10833	488554	0	0	2536385	113951297
2010-11	622500	27755532	58580	2718140	106801	5006424	44783	2078499	832664	37558595
2011-12	622500	27755532	0	0	0	0	0	0	622500	27755532
Total	3735000	167299614	94132	4392333	117634	5494978	44783	2078499	3991549	179265424
Rate of Tax Inc.	Table 3 (Segregation of Demand of Rs.12746702/-									
Cess		10.30%		10.30%		10.30%		10.30%		10.30%
Total S.Tax		17231860		452410		565983		214085		18464342

3. He submits that the Adjudicating authority, after going through the submissions of the appellant, has dropped part of the demand holding as under :

"However, as already brought out in facts, there is no expenditure on account of "database usage charges" for the years 2010-11 & 2011-12. Only the figures of 27755532/- were mentioned as 'liabilities to be written off' in the books in both the years 2010-11 & 2011-12 which the noticee wrongly took to be the part of the expenditure. Thus I hold that the demand of Rs.5717640(@10.3%) on such amount [of Rs.27755532+Rs.27755532/=Rs.55511064/-] does not hold good"
[Page 18 of the OIO / 184 of the Appeal book]

4. Against this dropping of the demand to the extent of Rs.57,16,640/-, the Revenue has not filed any Appeal before the Tribunal. Hence, the Appellant submits that it may be taken that the Revenue is not disputing the amount of the demand dropped.

5. The Service-wise / year-wise breakup of the confirmed demand is as per the following table :

Details	Database Usage Charges		Reimbursement of Advertising & Marketing expenses		Legal Charges		Salary		Excess expenditure wrongfully considered by the department and service tax there on which is not corroborating with financial data of the appellant	Total	
	Year	USD	INR	USD	INR	USD	INR	USD		INR	INR
2009-10	2490000	111788550	35552	1647193	10833	488554	0	0	27000	2536385	113951297
2010-11	0	0	58580	2718140	106801	5006424	44783	2078499	0	210164	9803063
Total	2490000	111788550	94132	4365333	117634	5494978	44783	2078499	27000	2746549	123754360
Rate of Tax Inc. Cess		10.30%		10.30%		10.30%		10.30%	10.30%		10.30%
Total S.Tax		11514221		449629		565983		214085	2784		12746702

6. He submits that the appellants has the following pleadings towards non-requirement of Service Tax payment of the above services :

A. Database Usage charges – Demand : Rs.1,15,14,221/-:

While in the books of accounts they have provided for the amount to be paid to the overseas entity [USD 2490000], due to severe recession, after mutual discussion and understanding with the overseas exporter, this amount was never paid to them. The details of the non-payment to them would be proved by way of duly certificate issued by the Chartered Accountant,

Income Tax entries, Bank Certificate etc. which are enclosed with the Appeal paper book.

B. Legal Services – Demand : Rs.5,65,983: The legal services were brought under Service Tax bracket to be paid on Reverse Charge basis only with effect from 1.7.2012. The period involved in the present proceedings are 2009-10 and 2010-11. Hence, no Service Tax is required to be paid to the extent of Rs.5,65,983.

C. Salary – Demand : Rs.2,14,085 : The expenditure is on account of the Salaries paid, which are not liable for any Service Tax payment

D. Reimbursement of Expenditure - Demand Rs.4,49,629 : These expenses have been incurred by overseas entity on behalf of the appellant and the same has been reimbursed to them. This expenditure is not towards any direct provided by the overseas entity.

7. The detailed submissions made by the appellant on the above issues in support of their arguments can be summarized as under :

A.Database Usage charges – Demand : Rs.1,15,14,221/- :

- a. The appellant entered into an agreement with Fox Insurance Co., USA, (hereinafter FICO) on 1st January 2010 to use their database to fetch more business in USA. Annexure 9 Pg No. 188. Accordingly, FICO had raised invoice for USD 2490000/- equivalent to INR 111788550/- Annexure-8 Pg No.186 to 187 of the Appeal book.

- b. The appellant considered the said invoices as mentioned hereinabove and booked the expenditure in the FY 2009-10 as ascertained liability and shown the FICO as the Sundry Creditors in the Balance Sheet in the said FY. (Annexure 23 Pg no. 230 of the Appeal book). List of Sundry Creditors for FY 2009-10 certified by Statutory Auditors is provided in Annexure 10 Pg No. 189 of the Appeal Book.
- c. During the F.Y. 2010-11 the appellant noticed fall of business due to recession in USA market. The appellant realised that the said agreement would not be beneficial to fetch more business in the USA market. The appellant immediately took up the matter with FICO and stopped taking any services from them and requested to give waiver for the invoices raised by them. The email to the FICO by the appellant in this regard is provided in Annexure 12 Pg No. 191 of the Appeal Book.
- d. Subsequently, FICO gave the waiver of entire invoices amount and issued the certificate that FICO had not received any payment from the appellant in regards to the aforesaid invoices raised by them during the FY 2009-10. The certificate of FICO is provided in Annexure 16 Pg No. 197 of the Appeal Book.
- e. The appellant also submitted the certificate issued by the Statutory Auditor; State Bank of India, MSE Br. Salt Lake, STPI A Govt. of India enterprise evidencing that no payment was made by the appellant towards database usage charges to FICO. All these certificates are provided in Annexure 18 Pg

No.209 to 211, Annexure 20 Pg No.215, Annexure 22 Pg No.219 to 220 of the Appeal Book.

- f. It is evident from all these certificates that the appellant did not make the payment to FICO towards database usage charges.
- g. Furthermore, the appellant states that the entire liability towards database usage charges to the tune of Rs. 111788550/- which was booked during F.Y. 2009-10 was written off in respective financial years based on the waiver of the invoice values by the FICO. The treatment of written off of liability was brought to the P&L A/c as income in respective F.Y and the appellant paid Income Tax thereon. Certificate of statutory auditor certifying the same is provided in Annexure-22 Pg. no. 219 to 220 of the Appeal book. Also, write off of database usage liability and considering the same as income in the books of accounts F.Y. wise is given in Annexure-23 Pg No. 242 of the Appeal book during FY 2010-11, Pg No. 260 during FY 2013-14 and Pg No. 279 of the Appeal book during FY 2014-15. The appellant had submitted the certificate by the Statutory Auditor in regards to the written off of the liabilities and also the financials of the company to the Ld. Principal Commissioner.

By way of these documentary evidence, the Appellant submits that it gets conclusively proved that though the liability was created towards foreign outflow to FICO during the year 2009-10, the same never materialized. It can also be observed that on 'database usage charges', while the demand was raised for the year 2010-11 and 2011-12, the Adjudicating authority has

dropped the demand of Rs.57,17,640 on the ground that the liabilities have been written off. The factual evidence cited supra, points to such writing off of the liability created in 2009-10 and accordingly the balance demand on account of this 2009-10 amounting to Rs.1,15,14, 221 is required to be dropped on merits.

B. Legal Services – Demand : Rs.5,65,983

Regarding legal consultancy fees paid to consultants in the USA for rendering legal consultancy services in USA during F.Y. 2009-10 and 2010-11, the appellant has furnished copies of agreements (Annexure 26 Pg no. 301-304) which were executed between the appellant and the consultants to provide time to time legal consultancy. It is evident from the furnished agreements that the nature of consultancy was for legal purposes. Documents submitted to SBI SME Branch for remittance of legal consultancy fees abroad are provided in Annexure 27 Pg no.305 to 381. Furthermore, during F.Y. 2009-10 and F.Y. 2010-11 the legal services were excluded from the ambit of the Finance Act. Hence, no service tax was payable on legal fees of Rs. 50,06,424/- (USD 1,06,801/-) paid during the F.Y. 2010-11. Hence, the confirmed demand of Rs. 5,65,983/- is required to be set aside on this count alone. Further, the Service Tax liability of Rs.50,321 has been considered for both 2009-10 and 2010-11. This amounts to demanding Service Tax twice for the same transaction.

C. Salary – Demand : Rs.2,14,085

Regarding salary paid to an employee in the USA, the appellant has provided an agreement in Annexure 24 Pg no. 284 to 287 which was executed between the appellant and the employee. Documents submitted to SBI SME Branch for remittance of salary abroad are provided in Annexure 25 Pg no. 288 to 300.

The appellant states that salary does not come within the purview of section 65(105) of the Finance Act, 1994 and is considered as non-taxable services during the relevant F.Y. 2010-11. Hence, service tax to the tune of Rs. Rs.214085/- demanded on account of Salary may be set aside.

D. Reimbursement of Expenditure - Demand Rs.4,49,629

Regarding reimbursement of marketing expenses paid to pure agent in USA for services received and exhausted in USA during F.Y. 2009-10 and 2010-11, the appellant submits that it made payment in foreign exchange towards reimbursement of expenses like travelling, conveyance, food, advertisement, banners, etc. These were out of pocket expenses reimbursed to pure agent of the Appellant on actual basis. All these payments were made through SBI SME Branch. Documents submitted to SBI SME Branch for remittance towards reimbursement of marketing expenses abroad are provided in Annexure 29 Pg no.383 to 557. Since there is no Service Tax liability on reimbursements, the confirmed demand of Rs.4,49,629 may be set aside.

E. Quantification error – Service Tax demand : Rs.2784/-

[2009-10] – There is an error in quantification of demand resulting in confirmation of demand of Rs.2784, which is required to be set aside

8. In view of the above submissions, the Director prays that the impugned order may be set aside and the appeal may be allowed on merits.

9. He further submits that the appellant is registered with proper Service Tax Registration since 2010 and has been filing their ST 3 Returns, which are duly acknowledged by the Range authorities. All the transactions towards the foreign remittance created in the books have been properly recorded in the books. Further, non-payment of

such created liability is properly recorded and also accounted for in the subsequent Income Tax Returns. Thus the appellant has maintained all the statutory records, without resorting to any concealment. Hence, the suppression with an intent to evade Service Tax does not arise. Further, if the appellant was by statute required to pay the Service Tax on Reverse Charge basis, the same would be available to them as Cenvat Credit / Refund since they are 100% EOU. Therefore, even this proves that the appellant had no intent to evade payment of Service Tax. Hence, he submits that the confirmed demand for the extended period may be set aside.

10. The learned AR representing the Revenue reiterates the findings of the Adjudicating authority and submits that though the appellants are registered under Service Tax provisions, they have not declared the details of the expenditure incurred on account of foreign exchange outflow on various services received from overseas parties. In terms of Section 66A, the appellants are required to pay the Service Tax on Reverse Charge basis. The Revenue has undertaken detailed verification of the P & L accounts and Balance Sheet to stumble upon the foreign exchange outflow and after this Show Cause Notice has been issued. The Adjudicating authority after noticing that some amount of foreign exchange for which provision was made in the Balance Sheet was not paid to the exporter of service, has dropped the demand thereon. Thus, the demand on the balance amount of demand is wholly justified. Accordingly, he prays that the appeal may be dismissed.

11. Heard both the sides. Perused the Appeal papers and the other documentary evidence placed along with the synopsis and arguments adduced by both the sides.

12. There is no dispute with the legal provision that in terms of Section 66A of the Finance Act 1994, the receiver of the services from overseas, is required to discharge the Service Tax on Reverse Charge Mechanism basis, except in case of certain exceptions created on

account of such services being received by individuals. Therefore, in the normal course, the Service Tax is required to be paid by the appellant if the payments have been made for overseas services received by them.

13. The main argument of the appellant in this case is that though they have made the provision towards the payment to be made towards the Database Usage charges to the overseas service provider, in view of the prevailing global financial crisis, based on a mutual agreement, the service provider waived the consideration to be paid to them. Therefore, as per the appellant though a provision has been made, as a matter of fact, this never resulted in actual payment / outflow of the foreign exchange to the overseas exporter. Hence, it is their argument that no Service Tax is required to be paid.

14. We have gone through the documentary evidence relied upon by the appellant to substantiate their arguments. The following documents are found to be relevant to the issue on hand :

(i) E mail from the appellant dated 30.11.2012 to FICO [Fox Insurance Co.] USA, outlining the financial constraints seeking waiver of payment of USD 2.49 million. [Page 191 of the Appeal book]

(ii) Letter dated 31.03.2011 from Chief Financial Officer of FICO conveying their Board's decision to waive 75% of the total dues amounting to 1867500. [Page 192 of Appeal book]

(ii) Letter dated 25.03.2014 from Chief Financial Officer of FICO conveying their Board's decision to waive USD 122500 of the total dues amounting to USD 622500. [Page 193 of Appeal book]

(iii) Letter dated 12.08.2014 from Chief Financial Officer of FICO conveying their Board's decision to waive due of USD 500000 [Page 194 of Appeal book]

(iv) E mail dated 22.02.2016 from FICO and E mail dated 19.02.2016 from the appellant on the subject [Page 195 of the Appeal book]

(v) Letter from FICO dated 31.03.2011, waiving 75% of the dues of USD 249000 amounting to 1867500 and directing the appellant to pay the balance amount of USD 622500. [Page 198 of the Appeal book]

(v) Letter from FICO dated 25.03.2014, waiving dues of USD 122500 amounting and directing the appellant to pay the balance amount of USD 500000. [Page 199 of the Appeal book]

(v) Letter from FICO dated 12.08.2014, waiving dues of USD 50000 [Page 200 of the Appeal book]

(vi) Certificate from FICO [Page No.197 of the Appeal book],stating that they have waived off the following amounts

Year	USD waived off
2010-11	1867500
2013-14	122500
2014-15	500000
Total	2490000

(viii) Certificate of Foreign Exchange Outflow during the Financial Years 2009-10 to 2014-15 has been issued on 20.02.2016 by State Bank of India. This Certificate shows that the payments have been made to the tune of USD 35551.69 towards reimbursement expenses during 2009-10, during 2010-11 USD 5859.76 towards reimbursement expenses, USD 44782.59 towards Salary, USD 106801.54 towards Legal Consultancy fee has been paid. It also certifies that there were no transactions during the year 2011-12 to 2014-15. This Certificate effectively proves that while foreign exchange payments have been made towards Salary,

Reimbursement of Expenses and Legal Expenses, no amount has been paid towards the Database Usage charges. This corroborates the appellant's claim that the overseas service provider has waived the entire invoice amount of USD 2490000 in the subsequent years.

(ix) Certificate dated 6.8.2015 [page No.219 to 220] addressed to the Commissioner Service Tax - 1 by the Chartered Accountants, Sen & Ray, certifying that the Database Usage Charges created as a liability at USD 2490000 in 2009-10, modified to USD 622500 in 2010-11, further modified to USD 500000 in 2011-12 was never paid and was 'Written Off' in its entirety and considered as income in the books of account of the appellant. It certifies that the liability created towards "Legal Consultancy Charges" during the year 2009-10, was paid during the year 2010-11. This is produced as one of the evidence by the appellant for not having paid the Data Usage Charges of USD 2490000.

14. In this case, mere submission by the appellant that Data Usage charges have not been paid, would not be sufficient to take it on the face value. We have to see as to whether enough evidence has been produced / adduced or not. We find that the above documentary evidence brought in by the appellant as discussed in Para 13 above, clearly proves beyond doubt that the appellant never paid the Data Usage Charges to the overseas service provider. The Department is in error in taking the Service value of USD 2490000 [Rs.11,17,88,550] towards the Data Usage charges to confirm the Service Tax demand of Rs.1,15,14,221. Therefore, we set aside the demand to this extent on merits, and allow the appeal.

15. Coming to the confirmed demand of Rs.5,65,983 on account of the Legal Services utilized by the appellants, we find that the expenses have been incurred during 2009-10 and 2010-11 and the payments have been made in 2010-11 as certified by the appellant's auditors.

The payments have been made towards Legal Services only as can be observed from the Certificate issued by State Bank of India, certifying the outflow of foreign exchange. We are in agreement with the appellant that the Legal Services have been brought under Service Tax bracket vide Notification No.30/2012 ST dated 20.6.2012 [effective from 1.7.2012], wherein as per Sl No.5 of the Table, the Service Tax in respect of the Services rendered by individual advocate or firm of advocates, the Service Tax is required to be paid by the recipient of service. Thus this service became taxable for the first time with effect from 1.7.2012. Though the Service Tax to be paid on Reverse Charge basis in respect of import of services was already been place with effect from 18.04.2006 in view of Section 66A, the service in question has to be first of all be taxable service *per se* so as to attract the provisions of Section 66A. In this case since Legal services were not under Service Tax bracket till 1.7.2012, Section 66A provisions cannot be directly applied to demand Service Tax payment. Therefore, we hold that the confirmed demand on account of Legal services amounting to Rs.5,65,983, is legally not sustainable and set aside the same. The appeal is allowed to this extent.

16. Turning the confirmed demand of Rs.2,14,085 being the Service Tax element towards the outflow of foreign exchange on account of Salary, as has been certified by State Bank of India, we find that this would not call of any Service Tax payment. Hence, we set aside the confirmed demand of Rs.2,14,085 and allow the appeal to this extent.

17. In respect of confirmed demand of Rs.4,49,629, the appellant claims that the foreign exchange outflow is on account of expenses incurred by the overseas parties and the same has been reimbursed to them. On this ground they are seeking waiver of Service Tax payment. They have submitted the Certificate issued by SBI to this effect. They have also enclosed more than 160 documents like the main invoice, the connected expenses details like hotel bills, travel bills etc., to fortify their arguments. It would not be possible for the Tribunal to go

through these documents to come to a conclusion as to whether they are in the nature of reimbursement or not. However, we are setting aside this demand of Rs.4,49,629 in view of the details being discussed in the coming paragraphs.

18. On going through the Show Cause Notice, we find that the allegation was that the appellants were incurring expenditure through foreign exchange outflow in respect of (a) royalty (b) management (c) consultancy fee (d) Data usage charges falling under BAS. During the period under consideration, i.e prior to 1.7.2012, the Show Cause Notice was required to be specific about the nature and classification of service under the Service Tax was being demanded. From the SCN, it is noticed, that though there is a mention of these four services, the final quantification has not even been done service-wise. The quantification was done based on the provision made each year, without even specifying the service under which the demand is made. In the landmark judgement of case law of **CCE, Ludhiana Vs Dr Lal Path Lab (P) Ltd [2007 (8) S.T.R. 337 (P & H)]**, the Punjab and Haryana High Court, has held that the classification under which the demand is made is very important and essential. The Service Tax cannot be confirmed under a wrong classification. However after 1.7.2012, the Revenue is not required to specify the specific classification of the service for making the demand. In the present case, while no classification of service was done by the Revenue, it was the appellant who has painstakingly brought out the amounts provided for under which category and has bifurcated the services, which is also supported by various certificates obtained by them. As per us, this is a serious flaw on the part of the Revenue in the present proceedings. As has been seen, non-bifurcation of the demand under the individual heads has resulted in making and confirming the demand for Legal Services and Salaries which did not attract the Service Tax at that point of time. The demand of Rs.4,49,629 in respect of reimbursement is being set aside, on the ground that this was not part of (a) to (d) classification mentioned in the Show Cause

Notice. We allow the Appeal to this extent. In respect of the small confirmed amount of Rs.2784, on the same ground that no specific classification has been brought in, we set aside the same and allow the appeal to this extent.

19. Turning to the issue of time bar raised by the appellant, we find that the appellant is registered with the Department 25.02.2009 under their earlier name [Part of the Brief facts in the SCN] and subsequently under the present name 29.07.2010 as can be observed from the ST 2 Certificate enclosed at page 143 of the Appeal Book. While the SCN is silent about as to when the investigation were taken up, we find from the Para 5 of the Reply to SCN filed by the appellant that the Range Supdt Service Tax Division II, sent his letter dated 17.06.2013 on 19.06.2013, requesting for submission of documents for detailed scrutiny of Service Tax for the FY 2008-09 to 2011-12. The appellants have filed these documents on 26.06.2013, without any delay. Moreover, as rightly submitted by the appellant, the Service Tax if required to be paid, would be eligible to them as Cenvat Credit / Refund, which would result in revenue neutral situation. It is the trite of the Tribunals and Courts to hold that in such case, the extended period provisions do not survive. A case in point is the decision of Tribunal Hyderabad, which in the case of **Asmitha Microfin Ltd v Commr. Of Cus., C. Ex & ST, Hyderabad-III, [2020 (33) GSTL 250 (Tri- Hyd)]** wherein the Hon'ble Bench after placing reliance on the judgment of the Hon'ble Apex Court in **Jet Airways (India) Ltd. v. Commissioner [2017 (7) G.S.T.L. J35 (S.C.)]** has held that:-

"However, we find that the demand is for the period April, 2009 to March, 2012 and the show cause notice was issued invoking extended period of limitation on 17-10-2014. The entire demand is under reverse charge mechanism and if the appellant had paid the service tax under reverse charge mechanism, they would have been entitled to Cenvat credit of exactly the same amounts. Therefore, the revenue neutrality in this case is evident. It has been well settled at the hands of the Apex Court in the case of Jet Airways (supra) that extended period of limitation cannot be invoked in revenue neutral cases. Therefore, the entire

demand is hit by limitation and therefore needs to be set aside. The impugned order is set aside and the appeal is allowed"

20. In the present case, the ratio laid down is squarely applicable and we have also noted that the Revenue has not brought in any cogent sustainable evidence to effect that the appellant has suppressed any facts with a wilful intent to evade payment of Service Tax on Reverse Charge basis. Therefore, we set aside the confirmed demand for the extended period on the ground of time bar also.

21. To summarize :

(a) Data Usage Services : Documentary evidence proves non-flowing out of any foreign exchange during the period under dispute – Hence the entire demand of Rs.1,15,14,221 is set aside on merits

(b) Legal services , Salary : Documentary evidence proves that these services do not attract Service Tax. Hence demand of Rs.5,65,983 and Rs.2,14,085 stands set aside on merits.

(e) Reimbursement and Misc : Since the nature / classification was not specified in the SCN, demands of Rs.4,49,629 and Rs.2784 are set aside on merits.

(f) As no case of suppression on the part of the Appellant can be fastened in the matter and in view of the revenue neutrality, the entire demand pertaining to the extended period stands set aside on account of time bar.

22. Thus, the appeal stands allowed. The appellant would be eligible for consequential relief, if any, as per law.

(Order pronounced in the open court on 27.09.2024.)

Sd/

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/

(RAJEEV TANDON)
MEMBER (TECHNICAL)