

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO.3

Service Tax Appeal No.10319 of 2021

(Arising out of OIA-AHM-EXCUS-001-APP-84-2020-21 dated 26/04/2021 passed by
Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD)

KHURANA ENGINEERING LIMITED

2nd Floor Msk House Panjarpole Road Ambawadi
Ahmedabad, Gujarat

.....Appellant

VERSUS

C.S.T.-SERVICE TAX – AHMEDABAD

7 Th Floor, Central Excise Bhawan, Nr. Polytechnic
Central Excise Bhawan, Ambawadi,
Ahmedabad, Gujarat-380015

.....Respondent

APPEARANCE:

Shri. Vipul Khandhar, Chartered Accountant for the Appellant
Shri G. Kirupanandan, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

Final Order No. A/ 10768 /2022

DATE OF HEARING: 24.06.2022
DATE OF DECISION: 30.06.2022

RAMESH NAIR

In the present case the appellant's refund claim of the amount deposited during the investigation was rejected and same was upheld by the Commissioner (Appeals), on the ground that the case against which the deposit was made not decided at that time, therefore, the refund was rejected as premature.

2. Shri. Vipul Khandhar, Learned Chartered Accountant, appearing on behalf of the appellant submits that the demand case against which this amount was deposited and for the same the refund was sought for has been settled in favour of the appellant by this Tribunal as on date, therefore, the appellant are entitled for the refund.

3. Shri. G. Kirupanandan, Learned Superintendent (Authorized Representative) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. I have carefully considered the submission made by both the sides and perused the records. After passing both the orders by the lower authorities there is a change in circumstances in as much as in the case wherein the

amount was deposited for which the refund pertains has been settled in favour of the appellant, therefore, now it cannot be said that the refund is premature. However, since, the lower authorities have rejected the claim on the premature ground, the entire refund needs to be processed a fresh as per the present circumstances.

5. Accordingly, I set aside the impugned order and remand the matter to the adjudicating authority for passing a fresh order on the refund filed by the appellant in accordance with law.

(Pronounced in the open court on 30.06.2022)

(RAMESH NAIR)
MEMBER (JUDICIAL)

Prachi