
(2012) 10 BOM CK 0037
In the Bombay High Court
Case No : Writ Petition No. 9857 of 2012

BNP Paribas India Solution P. Ltd.

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 18-10-2012

Acts Referred:

Citation : (2013) 289 ELT 30 : (2013) 18 GSTR 148 : (2013) 57 VST 428

Hon'ble Judges : M.S. Sanklecha, J; J.P. Devadhar, J

Bench : Division Bench

Judgement

1. This writ petition is filed to challenge the order-in-original dated September 28, 2012 whereby the refund claim of the petitioner has been rejected. It is the case of the petitioner that similar claims made by the petitioner have been allowed in the past but the same have not been considered in the impugned order. Ordinarily, we do not entertain the writ petition against the order-in-original, in view of the alternate remedy of appeal available under the Act. However, in the present case, on perusal of the adjudication order, it is seen that the adjudicating authority has not given any finding as to why the claims allowed in the past were erroneous. In this view of the matter, the impugned order-in-original dated September 28, 2012 is quashed and set aside and the Assistant Commissioner (Service Tax) is directed to pass fresh order on merits after giving an opportunity to the petitioner as to why he is differing from his earlier decision in the matter of granting refund to the petitioner. The Assistant Commissioner shall, hear the petition and pass appropriate order as early as possible and preferably within a period of four weeks from today.

2. The petition is disposed of in the above terms with no order as to costs.