**(2021) 01 P&H CK 0424**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Civil Writ Petition No. 10302, 18876, 16305 Of 2020

Genpact India Pvt. Ltd. APPELLANT

Vs

Union Of India And Ors. RESPONDENT

**Date of Decision :** 29-01-2021

**Acts Referred:**

**Citation :** (2021) 01 P&H CK 0424

**Hon'ble Judges :** Augustine George Masih, J;Ashok Kumar Verma, J

**Bench :** Division Bench

**Advocate :** Tarun Gulati, Rohit Sud, Sachit Jolly, Nikhil Gupta, Abhishek Boob, Sunish Bindlish

**Final Decision :** Disposed Of

# Judgement

Augustine George Masih, J

By this order, we propose to dispose of three writ petitions i.e.

CWP Nos. 10302, 18876 and 16305-2020.

In CWP Nos. 10302 and 16305-2020, challenge is to the orders dated 27.05.2020 and 05.08.2020 (Annexures P-9 and Annexure P-1, respectively)

passed by the Appellate Authority, whereby the refund claimed by the petitioners has been rejected.

In CWP-18876-2020, the petitioner has straightway approached this Court, challenging the order dated 11.09.2020 (Annexure P-1) of the Adjudicating

Authority, vide which the refund claimed by the petitioner has been rejected.

Having heard the counsel for the parties and on going through the pleadings as well as the impugned orders, we are of the firm view that the above

orders impugned passed by the Adjudicating Authority/Appellate Authority, are cryptic and non-speaking and the reasons assigned for holding the petitioners to be intermediaries, do not sustain as they do not pass the test of law as has been laid down in the judgments. Some of the judgments on

which reliance has been placed by learned counsel for the petitioner(s) are as follows:

(1) Verizon Communication India Pvt. Ltd. Vs. Assistant Commissioner, Service Tax, Division XIV and others, 2018(8) G.S.T.L. 32.

(2) Commissioner of Central Excise, Nagpur Vs. Gurukripa Raisins Pvt. Ltd., (2011) 13 SCC 180.

(3) Union of India Vs. Karvy Stock Broking Ltd., (2019) 11 SCC 631.

(4) Karvy Securities Ltd. Vs. Union of India (Writ Petition No. 6069/2004, Andhra Pradesh High Court).

(5) Bullion and Jewellers Association and others Vs. Union of India, 2016(335) ELT 639 (Del.).

(6) Orient Paper Mills Ltd. Vs. Union of India, (1969) 1 SCR 245.

(7) Commissioner of Income Tax (CNTL) Vs. Hero Cycles Pvt. Ltd., (1997) 8 SCC 502.

(8) M/s Radhasoami Satsang Vs. CIT, (1992) 1 SCC 659.

(9) BSNL Vs. UOI, (2006) 3 SCC 1.

(10) State of Karnataka Vs. K.A. Kunchindammed, (2002) 9 SCC 90.

(11) Evalueserve.com Pvt. Ltd. Vs. CST, (2019) 106 Taxmann.com 74 (Chd.-CESTAT).

(12) Verizon India Pvt. Ltd. Vs. Commissioner of Service Tax, order dated 02.08.2019 passed by CESTAT, New Delhi in Service Tax Appeal No.

52799 of 2016.

In view of the above, the impugned orders dated 27.05.2020 (Annexure P-9 in CWP-10302-2020); 11.09.2020 (Annexure P-1 in CWP-18876-2020)

and 05.08.2020 (Annexure P-1 in CWP-16305-2020), are hereby quashed.

Since we are of the view that the matter needs to be remanded back to the Appellate Authority in CWP Nos. 10302-2020 and 16305-2020 and to the

Adjudicating Authority in CWP-18876-2020, for fresh decision, we have not referred to the merits of the case, lest prejudice is caused to any of the

parties.

Petitioner(s) are directed to appear before the Appellate Authority/Adjudicating Authority on 03.02.2021 at 11.00 A.M.

The concerned Authority, shall take a decision and pass an order within a period of two weeks' with regard to the claim of the petitioners from the

date of appearance of the petitioner(s), in accordance with law. In case, the claim of the petitioners is accepted, the consequential benefits shall be

granted/released to the petitioner(s), within a period of one week thereafter.

All the three writ petitions stand disposed of, accordingly.

A copy of this order be supplied dasti to learned counsel for the petitioner(s) under the signatures of Bench Secretary.