

**13.9.2023**

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**WPA 19783 of 2023**

Keysight Technologies India Private Limited

Vs

Assistant Commissioner, CGST, Range-V,  
Bidhannagar Division & Ors.

Mr. Bharat Raichandani,

Ms. Swapna Das

... For the Petitioner.

Mr. Vipul Kundalia,

Mr. Tapan Bhanja

... For the Respondents.

Mr. Debasish Chowdhury,

Mr. Prithu Dudhuria

... For the UOI.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 21<sup>st</sup> February, 2022, rejecting the claim of the petitioner for refund in question, passed on the order of remand passed by the Appellate Authority on 26<sup>th</sup> March, 2021 with specific direction upon the Adjudicating Authority to consider the petitioner's application and pass a speaking order. On perusal of the aforesaid impugned order dated 21<sup>st</sup> February, 2022, it appears that the Adjudicating Authority has passed the impugned order on remand by the higher authority by clearly defying and in violation of the order of the higher Appellate Authority which was binding upon the Adjudicating Authority being a subordinate to the Appellate Authority, by recording that the order of the Appellate Authority is not in accordance with law and he could not comply

the order of the Appellate Authority and rejected the petitioner's claim of refund. Such conduct of the Adjudicating Authority is highly deprecable and if such stand is taken by an adjudicating authority on his senior authority's order by contending that his officer's order is not correct and he will not obey and comply such order, there will be administrative anarchy in the Government offices and such conduct is also beyond the norms of the quashi-judicial authority's' function. If Adjudicating Authority was of the view that order of the Appellate Authority was not in accordance with law he could have gone to further appeal. The Commissioner of CGST shall take note of such conduct of the aforesaid Adjudicating Officer and issue proper instruction for avoidance of such conduct in future.

Learned Advocates appearing for the respondents are not in a position to defend such conduct of the respondents/Adjudicating Authority.

Considering the facts and circumstances of the case as appears from record and submission of the parties and in view of the discussion made above, the impugned order dated 21<sup>st</sup> February, 2022, is set aside and the matter is remanded back to the Adjudicating Authority concerned to pass a fresh speaking order in accordance with law after giving an opportunity of

hearing to the petitioner or its authorised representative, within a period of four weeks from the date of communication of this order.

With this observation and direction this writ petition being WPA 19783 of 2023 is disposed of.

A copy of this order will be forwarded to the Commissioner of CGST by the petitioner.

**( Md. Nizamuddin, J. )**