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

REGIONAL BENCH-COURT NO. 3

SERVICE TAX Appeal No. 11620 of 2014 - DB

(Arising out of OIA-VAP-EXCUS-000-APP-585-13-14 dated 14/03/2014 passed by Commissioner of Central Excise, Customs and Service Tax-VAPI)

Sutlej Textile & Industries Ltd ....**Appellant**
Village : Daheli,
Bhilad Sanjan Road,
Bhilad, Valsad, Gujarat

VERSUS

C.C.E. & S.T.-Vapi ......**Respondent**
4th Floor...Adharsh Dham Building,
Opp. Town Police Station, Vapi-Daman Road, Vapi
Vapi, Gujarat- 396191

APPEARANCE:
Shri Prakash Shah, Mihir Mehta & Mohit Rawal Advocate for the Appellant
Shri Ashok Thanvi, Superintendent (AR) for the Respondent

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

Final Order No. 10162/2024

DATE OF HEARING: 06.09.2023
DATE OF DECISION: 16.01.2024

RAMESH NAIR

The issue involved in the present case is that whether the appellant is entitled for exemption Notification No. 18/2009-ST dated 07.07.2009 as they were not paying service tax on goods transport agency service and the service of overseas commission agent used for exportation of goods.

2. Shri Prakash Shah, Learned Counsel with Shri Mihir Mehta and Shri Mohit Raval, Learned Advocates appearing on behalf of the Appellant at the outset submits that the Learned Commissioner (Appeals) has rejected the appeal on the ground that the appellant has not submitted the documents in support of their claim of notification whereas the Adjudicating Authority has rejected claim on altogether different ground. It is his submission that all the documents were submitted before the Adjudicating Authority such as

all consignment notes/lorry receipt copy wherein the name of the consignee is stated as STLJ as the appellant and destination is Drona Giri/JNP/Nhava Seva- port of shipment, export invoice number which correspond to that mentioned in shipping bills.

2.1 As regard the overseas commission agent service, the appellant had submitted an export contract copy wherein the name of buyer, commission agent, product, payment terms, commission etc is stated and the same is in compliance with the condition specified in the notification. Therefore, the documents evidencing the correlation between the export of goods and input service viz GTA service and Overseas Commission Agent service is clearly established, therefore, the learned Commissioner (Appeals) has wrongly rejected the claim of exemption notification. The Learned Counsel made other common submissions on revenue neutrality and also on limitation. He also placed reliance on the following judgments:-

- Genom Biotech Pvt. Ltd. Vs. Commissioner – 2016 (42) STR 918 (Tri. Mumbai)
- Wanbury Ltd vs. Commissioner – 2019 (21) GSTL 154 (Tri. Mumbai)
- Commissioner of Central Excise &amp,Customs , Vadodara-II vs. Indeos ABS Ltd – 2010 (254) ELT 628 (Guj.) affirmed by SC - 2011 (267) ELT A155 (SC)
- Sarovar Hotels Pvt ltd vs. Commissioner of Service Tax, Mumbai – 2018 (10) GSTL 72 (Tri. – Mumbai)
- Gannon Dunkerley Co. Ltd vs. CST, New Delhi – 2021 (47) GSTL 35 (Tri. Del)

3. Shri Ashok Thanvi, Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. We have carefully considered the submission made by both sides and perused the records. We find that the Learned Commissioner (Appeals) has rejected the appeal of the appellant on the ground that they have not submitted the required documents, however, on the contrary it is clearly on record that all the documents have been submitted which are sufficient to establish the correlation between the export of goods and input services used for such export, therefore, the appellant are prima facie entitled for the exemption Notification No. 18/2009-ST. However, since the documents have not been verified by the Commissioner (Appeals), we are of the view that the matter needs to be reconsidered by the Learned Commissioner (Appeals) in the light of the documents which are already on record. If at all any other document is required, the appellant has liberty to submit before the Commissioner (Appeals).

5. Accordingly, the impugned order is set aside. Appeal is allowed by way of remand to the Commissioner (Appeals) for passing a fresh order.

(Pronounced in the open court on 16.01.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Raksha