CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>ALLAHABAD</u>

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70517 of 2018

(Arising out of Order-in-Appeal No.06/Comm/Appeal/GZB/2017-18 dated 20/02/2018 passed by Commissioner (Appeals) Central Excise & Service Tax, Ghaziabad)

M/s Allcargo Logistics Park Pvt. Ltd., ...Appellant
(ICD, Dadri, Tilpata Road, Gautam Budh Nagar)

VERSUS

Commissioner of Central Excise &

Service Tax, Ghaziabad ....Respondent

(CGO Complex-II, Kamala Nehru Nagar, Ghaziabad-201002)

<u>APPEARANCE:</u>

Shri Sanjay Kumar, Advocate for the Appellant
Shri Manish Raj, Authorised Representative for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.70200/2024

DATE OF HEARING : 17 January, 2024
DATE OF DECISION : 17 January, 2024

<u>SANJIV SRIVASTAVA:</u>

This appeal is directed against order in appeal No 6/COMM/APPEAL/GZB/ 2017-18 dated 20.02.2018 of the Commissioner (Appeal) Central Goods and Service tax Ghaziabad. By the impugned order in original No 22/AC/NOIDA/ V/2016-17 dated 22.02.2017 has bee upheld.

2.1 Appellant is a Private Limited Company engaged in the business of handling Import & Export cargo and services. They are registered for providing services under the taxable category of Cargo Handling Services", "Storage and Warehouse Services", `Goods Transport Agency Services", "Business Support

Services", "Work Contract Services" and "Other Taxable Services".

2.2 During the course of audit of the records of the appellant for the period 2011 to 2013, it was observed that the appellant is not discharging service tax liability on shifting charges of empty containers, export plug in charges, export weighment & Fuels charges, flat carting etc., as the same were not covered under the exclusion clause of "Cargo Handling Services". Appellant did not produced any evidence to show that, why these charges are not a part of "Cargo Handling Services".

2.3 A show cause notice dated 04.03.2016 was issued invoking the extended period of limitation on the ground that the Appellant was liable to pay service tax during the period 01.04.2011 to 30.06.2012 amounting to Rs 4,27,585/- and the Appellant did not make the necessary disclosure during the relevant period asking the appellant to show cause as to why:

- *Service tax including cess amounting to Rs. 4,27,585/-(Rupee Four Lakh, twenty seven thousand, five Hundred and eighty five only) for provision of cargo handling services should not be demanded under the proviso of Section 73(1) of Finance Act, 1994.*
- *The interest should not be recovered under the provisions of Section 75 of the Finance Act, 1994.*
- *Penalty should not be imposed upon them under Section 77 of the Finance Act,1994 for not maintaining proper account as per the Finance Act, 1994 and rules made there under.*
- *Penalty should not be imposed upon them under Section 78 of the Finance Act, 1994 for nonpayment of service tax by reason of willful suppression of facts and contravention of the provisions of section 68 of the Finance Act, 1994 read with Rule 6 of Service Tax Rules, 1994 .*

2.4 The Show Cause Notice was adjudicated vide Order-in-Original dated 22.02.2017 holding as follows:

"ORDER

(i) *I confirm demand of Service tax including cess amounting to Rs. 4,27,585/-(Rupee Four Lakh, twenty seven thousand, five Hundred and eighty five only) for provision of cargo handling services under the proviso to Section 73(2) of Finance Act, 1994 as proposed under Section 73(1) of Finance Act, 1994.*

(ii) *I confirm interest under the provisions of Section 75 of the Finance Act, 1994.*

(iii) *I impose the penalty under Section 77 of the Finance Act,1994 for not maintaining proper account as per the Finance Act, 1994 and rules made there under.*

(iv) *I impose a penalty of Rs. 4,27,585/- under Section 78 of the Finance Act, 1994 for nonpayment of service tax by reason of willful suppression of facts and contravention of the provisions of section 68 of the Finance Act, 1994 read with Rule 6 of Service Tax Rules, 1994 .*

2.5 Appellant filed an appeal against this order, which were disposed of by the impugned order referred in para 1 above.

2.6 Being aggrieved by the impugned order Appellant has filed this appeal.

3.1 Have heard Shri Sanjay Kumar, Advocate for the appellant and Shri Manish Raj, Authorized Representative for the revenue.

3.2 Arguing for the Appellant learned counsels submit that:

- appellant was under bonafide belief that export plug-in charges, export weighment charges, fuel charges, charges for shifting empty containers etc., are charged in respect of Export Cargo were specifically exempt from the levy of service tax from 16.08.2002 to 30.06.2012.
- the definition of the above said charges itself clarifies that they are charged in respect of export of goods.

- Export Cargo is specifically excluded from the definition of "Cargo Handling Services" as defined u/s 65(23) of the Finance Act, 1994 and thus any cargo handling services rendered in relation to export cargo is not subject to the levy of service tax.
- Appellant had submitted the declarations of clients i.e. exporters that the cargo handling services received by them are in respect of export cargo.
- Appellant had submitted all the documentary evidences before the adjudicating authority to prove its contention that the aforesaid charges are collected in respect of export cargo which is specifically excluded from the definition of "Cargo Handling Services" but the same is not considered by the department while passing the order.
- Impugned order has concluded that the activities of the appellant in respect of the cargo handling charges are covered in the inclusive part of the definition of "Cargo Handling Services", without assigning any reasons as to why such cargo handling services rendered are not covered under the exclusive limb of the definition.
- Reliance is placed on the following judgments:
    - Jawaharlal Nehru Port Trust Pvt. Ltd. [2015 (40) S.T.R. 533 (Tri.-Mumbai)]
    - J.M. Baxi & Company [2013 (31) S.T.R. 453 (Tri.-Mumbai)]
    - Konkan Marine Agencies [2009 (13) S.T.R. 7 (Kar.)]
- Extended Period Cannot be invokable Cum-Tax benefit should be extended
- No interest/penalty can be charged/imposed
- Penalty u/s 78 is not imposable in case where the default has been made by the appellant due to reasonable cause

3.3 Learned authorized representative reiterates the findings recorded in the impugned order.

4.1 We have considered the impugned order with the submissions made in appeal and during the course of arguments.

4.2 Impugned order records following findings for holding against the appellant:

> *6 I have carefully gone through the facts of the case, impugned order, appeal memorandum, and submissions made by the appellant at the time of personal hearing. The issue to be decided in the present appeal is whether the impugned order confirming the demand of service tax on the amount collected by the Appellant for providing the services of Cargo Handling, along with interest and penalties imposed under Section 77 and 78 of the Finance Act, 1994, is proper or otherwise. The appellants were claiming Service tax exemption on the aforesaid amount received from their clients in respect of shifting charges of empty containers, export plug in charges, export weighment & fuel charges, flat track, carting elc., towards cargo handling services provided for export cargo.*
>
> *7. I observe that the lower authority had confirmed the service tax for the period from 201 1- 12 and 2012-13 on shifting charges of empty containers, export plug in charges, export weighment & fuel charges, flat track, carting etc., as the same were not covered under the exclusion clause of the services classified as "Cargo Handling Services" whereas the appellant claimed the same cargo handling of export goods which is being exempt from levy of service tax. The appellant's plea on the subject charges, as pointed out by the audit, was not adduced by any supporting documents to establish hat the same were related to export cargo. The adjudicating authority has observed that all the charges under which the party had received payment were related to "cargo handling services" merely writing of word export" before any charges does not qualify for exemption from "cargo handling services" and also they could not produce any concrete evidence that why these charges are not a part of "cargo handling services*

7.1 I find that statue of levy of service tax on Cargo Handling Services has been provided under Section (Zr) (105) (zr) of Finance Act, 1994 as "taxable service" means any service provided or to be provided to any person, by a cargo handling agency in relation to cargo Handling services;

The broad meaning of cargo handling service has been provided under Section 65(23) of the Act which defines "cargo handling service" as loading, unloading, packing or unpacking of cargo and includes

(a) cargo handling services provided for freight in special containers or for non containerized freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport, and cargo handling service mine incidental to freight; and

(b) service of packing together with transportation of cargo or goods, with or without one or more of other services like loading, unloading, unpacking

but does not include, handling of export cargo or passenger baggage or mere transportation of goods. The above difference is an inclusive one;

7.2 Thus, in view of above clarifications, the activities under the 'Cargo Handling Services' are packing, unpacking, loading and unloading of goods, which are meant for transportation by any means namely truck, rail, ship or aircraft are taxable. But in this case I find that the Appellant are engaged in the business of handling import and export cargo providing different services falling within the ambit of Cargo Handling Service from its Container Freight Station (CFS) located at ICD, Dadri. In this case, it is beyond doubt that the activities in respect of which the charges were recovered by the appellant under the accounting head of 'shifting charges for empty containers', 'fuel charges', 'flat rack charges', weighment charges', 'export plug-in charges', 'carting charges' and 'fumigation charges' are covered under the inclusive definition of "cargo handling service" and liable for *payment of service tax under the relevant provisions of Finance Act, 1994 supra. The exemption is available to only those activities that are related to export. I do not find any essential element of the aforesaid activities which suggest that the same were performed only in case of export goods during the transportation up to the place of export. Therefore, it is apparent that, service tax was payable on the amount recovered by the appellants from their clients classifiable under 'cargo handling service" and exemption was not availed to them as the same services were not exclusively related to export.*

7.3 The contention raised by the Appellant that the extended period is not invocable in their case is not sustainable as the Appellant are license holder of CFS and are well aware of the rules and regulations framed under Finance Act, 1994. Even if they were not sure of the nature of the services they were providing they could have approached the department for clarifications. The tax liability on the Appellant was unearthed only during audit of their books of Account otherwise the tax liability could have remained unfulfilled. The Appellant with a malafide intention to evade the payment of service ax misclassified the services provided by them and suppressed the facts from the department and have attracted the provisions of Section 73(1) of the Act. I find that the extended period is rightly invocable in this case. The Appellant have referred to the plethora of judgments which either do not pertain to the case matter or are not squarely applicable in the fact and circumstances of the case."

4.3 The issue for consideration before us is whether the various charges collected by the appellant under the category of 'shifting charges for empty containers', 'fuel charges', 'flat rack charges', weighment charges', 'export plug-in charges', 'carting charges' and 'fumigation charges' are covered under the inclusive definition of "cargo handling service" and were subjected to levy of service tax during the period of dispute. In para 7.1 of the impugned order the definition of cargo handling services as per Section 65 (23) of the Finance Act, 1994 has been reproduced. The entire dispute is whether these charges collected by the appellant from its client will fall under the category of "handling of export cargo", to be covered by the excluded category of the above definition. Hon'ble High Court of Allahabad has in case of Manoj Kumar [2015 (40) S.T.R. 35 (All.)] observed as follows:

> ***"14.*** *In common parlance 'cargo' means load, which is to be carried by ship, aeroplane, rail or truck. The handling of transportation of goods, by itself unless it is an organised activity, which is connected with carrying cargo (load) by ship, aeroplane, rail or truck is involved would not fall within the definition of cargo handling service.* ***The definition specifically excludes handling of export cargo or passenger baggage or mere transportation of goods."***

Hon'ble Karnataka High Court has in case of Konkan Marine Agencies have held as follows:

> *"14. A bare reading of the aforesaid definition further makes it clear as day that in any case handling of export cargo would not attract service tax at all. After having gone through the aforesaid definition,* ***it leaves no amount of doubt in our mind that such a service tax could not have been levied on the assessee which was handling loading of cargo, meant for export purpose.****"*

Following this decision in case of J M Baxi & Company [2013 (31) STR 453 (T-Mum)], Mumbai bench has held as follows:

> ***"6.1*** *The 'Cargo Handling Service' definition under Section 65(23) excludes from its scope, handling of export cargo. What is covered under the Port Services under Section 65(82) is a taxable service rendered in a Port area. If the handling of cargo is excluded from the scope of a taxable service, it cannot come within the purview of Port*

Service as defined. ***This is the view taken by the Hon'ble High Court of Karnataka in the case of Konkan Marine Agencies (supra). Therefore, there is merit in the claim of the appellant that the Service Tax liability is not attracted in respect of export transactions.*** *However, the matter needs verification at the adjudicating authority's end. Therefore, we remand the matter back to the adjudicating authority to verify the particulars submitted by the appellant in this regard and satisfy himself that the amounts collected by the appellant pertain to handling of export cargo."*

4.4 Appellant contended that as per section 2(19) of the Custom Act, 1962, "Export Cargo" means any goods which are taken out of India to a place outside India. The purpose for which these charges as collected as explained by them are as follows:

- Export Plug-in-charges is to maintain temperature of the export goods in order to preserve their quality and protect from damages
- Export Weighment Charges: are collected for weighing the cargo to be exported
- Fuel Charges: Charges towards fuel used in machines which are used for the movement of the export cargo.
- Charges for shifting empty containers: Charges collected for transport of empty containers to the warehouse where export goods are placed in the containers.

4.5 In their reply to show cause notice, appellant have specifically produced the evidences before the adjudicating authority. In para 3.5 of the reply following has been stated specifically:

"3.5 To substantiate that the disputed charges are collected in relation to handling of export cargo we are enclosing herewith the following documents for your perusal:

3.5.1 Sales register of disputed charges depicting its invoice wise details (Refer Appendices B1 to B).

3.5.2 Sample copies of invoices raised towards the disputed charges along with its corresponding shipping bill (Refer Appendices C1 to C15).

3.5.3 Declaration from our clients that the disputed charges are collected in relation to export cargo (refer Appendices D1 to D5).

3.5.4 Weighment is not service held by Delhi CESTAT in Deepak [2008] (17) STT 73 & Bake Bihari Computer [2008] 17 STT 236 9Refre Appendices E1 to E2)."

4.6 Again in their appeal before the first appellate authority appellant has at 6.2.3 specifically stated as follows:

"6.2.3 In order to substantiate that the disputed charges were collected in relation to handling of the export cargo, the Appellants submitted the following documents to the Assistant Commissioner which are enclosed herewith:

i. Sales register of disputed charges depicting its invoice wise details (Refer Appendices D1 to D6).
ii. Sample copies of invoices raised towards the disputed charges along with its corresponding shipping bill (Refer Appendices E1 to E15).
iii. *Declaration from our clients that the disputed charges are collected in relation to export cargo (refer Appendices D1 to D5)."*

4.7 We have perused the above documents which have been filed along with appeal paper book. From the above we are convinced that the appellants had produced sufficient evidence before the lower authorities to substantiate their claim that these charges were collected by them in relation to export cargo. Both the authorities have chosen to ignore these documents and have held that appellant have not produced documentary evidence to substantiate their claim. No finding has been recorded by either of the authority in respect of these evidences, produced by the appellant.

4.8 On going through these documents sales register, invoices and the shipping bills along with the declaration of their clients filed by the appellants we are convinced that these charges are in respect of export cargo only. The declarations of the clients of the appellants filed by them are reproduced below:

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M.K. Overseas Pvt. Ltd.

Fax : +91-11-2341 3093
Email : mko.nadeem@gmail.com
CIN : U25209DL1987PTC029976

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(Govt. Recognised Star Trading House)

Admn. Office : 14, Fire Brigade Lane, Near World Trade Centre, Connaught Place, New Delhi-110001 (INDIA)
Regd Office : 39/5864, Basti Harphool Singh, Sadar Bazar, Delhi-110006 (INDIA)

TO WHOMSOEVER IT MAY CONCERN

I Mohd. Nasir, of M. K. Overseas Pvt. Ltd. situated at 14, fire brigade lane, Connaught place, New Delhi-110001, hereby declare that:

a) The information given in this letter is true, correct and complete in every respect.

b) M. K. Overseas Pvt. Ltd has received services from M/s All Cargo Logistics Park Private Limited (STC – AAHCA1790MSD001) and invoices (listed in Annexure A which is attached herewith) have been raised on us during April 2011 to June 2012 towards the provision of cargo handling services in relation to export cargo.

For M. K. Overseas Pvt. Ltd

Mohd. Nasir

Asst. Manager (Accounts)

Date : 13/7/2016

Works/Plant : B-63-64, Site-IV, Industrial Area Sahibabad, Distt. Ghaziabad-201010 (U.P.)
(Sahibabad) Tel : +91-0120-4757900 Fax : +91-0120-4152430 E mail : mkoplant.sbd@gmail.com

Works/Plant : 7th K. M. Stone, Village Samgauli, Samgauli Link Road, Tehsil Derabassi, Distt. SAS Nagar, Mohali,
(Punjab) Punjab-140507 (INDIA) Tel : +91-01762-283786, 280786 E mail : mkoderabassi@gmail.com

Allcargo Logistics Park Pvt. Ltd. CFS-Dadri

F2 F 181

M. K. Overseas P
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Ema
CIN

Admn. Office : 14, Fire Brigade Lane, Near World Trade Centre, Connaught Place, New Delhi-110001 (INDIA)
Regd Office : 39/5864, Basti Harphool Singh, Sadar Bazar, Delhi-110006 (INDIA)

Details in Annexure A

Invoice No.	Date	Amount
EX/0148	09-02-2012	4800.00
EX/0163	15-02-2012	24000.00
ALP/001291	22-02-2012	11301.99
ALP/001292	22-02-2012	11301.99
ALP/001293	22-02-2012	11301.99
ALP/001294	22-02-2012	11301.99
ALP/001295	22-02-2012	11301.99
ALP/001296	22-02-2012	11301.99
ALP/001297	22-02-2012	11301.99
ALP/001298	22-02-2012	11301.99
ALP/001334	22-02-2012	9978.39
ALP/001335	22-02-2012	9978.39
ALPPL/EX/0288	21-04-2012	154584.89
ALPPL/EX/0295	30-04-2012	94348.70
ALP/EX/0302	30-04-2012	16078.72
ALPPL/EX/0310	18-05-2012	311394.50
ALPPL/EX/0313	28-05-2012	186338.00
ALPPL/EX/0318	31-05-2012	107933.00
ALPPL/EX/0326	31-05-2012	55584.00
ALPPL/EX/0334	16-06-2012	132270.00
ALPPL/EX/0347	25-06-2012	420878.00
ALPPL/EX0357	30-06-2012	106989.00
	GT.	**1725571.51**

For M. K. Overseas Pvt. Ltd

Mohd. Nasir

Asst. Manager (Accounts)

Works/Plant : (Sahibabad) B-63-64, Site-IV, Industrial Area Sahibabad, Distt. Ghaziabad-201010 (U.P.)
Tel : +91-0120-4757900 Fax : +91-0120-4152430 E mail : mkoplant.sbd@gmail.com

Works/Plant : (Punjab) 7th K. M. Stone, Village Samgauli, Samgauli Link Road, Tehsil Derabassi, Distt. SAS Nagar, Mohali, Punjab-140507 (INDIA) Tel : +91-01762-283786, 280786 E mail : mkoderabassi@gmail.com

Al Dua
Food Processing (P) Ltd.

Regd. Office :
16, Fire Brigade Lane,
Near World Trade Centre,
Connaught Place, New Delhi-110001
Tel. : +91-11-41525900 Fax : +91-11-23413093
E-mail : info@aldua.in
CIN : U15111DL2005PTC143959

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TO WHOMSOEVER IT MAY CONCERN

I Sangram Singh, (Sr. Manager Accounts) of Al Dua Food Processing Pvt. Ltd., situated at 16-Fire Brigade Lane, Connaught Place, New Delhi-110001, hereby declare that;

a) The information given in this letter is true, correct and complete in every respect.

b) AL Dua Food Processing Pvt. Ltd. has received services from M/s All Cargo Logistics Park Private Limited (STC – AAHCA1790MSD001) and invoices (listed in Annexure A which is attached herewith) have been raised on us during April 2011 to June 2012 towards the provision of handling services in relation to export cargo.

For AL Dua Food Processing Pvt. Ltd.

Sangram Singh

Sr. Manager Accounts

Date : 13.07.2016

Details in Annexure A

S. No.	Customer Name	Invoice No.	Date	Amount
1	AL DUA FOODS PROCESSING PVT LTD	ALP/003002	22/04/2012	3067.00
2	AL DUA FOODS PROCESSING PVT LTD	ALP/004115	25/05/2012	370.79
3	AL DUA FOODS PROCESSING PVT LTD	ALP/004113	25/05/2012	370.79
4	AL DUA FOODS PROCESSING PVT LTD	ALPPL/EX/0333	12/06/2012	10921.00
5	AL DUA FOODS PROCESSING PVT LTD	ALPPL/EX/0345	25/06/2012	65258.00
6	AL DUA FOODS PROCESSING PVT LTD	ALPPL/EX0356	30/06/2012	9573.00
				89560.58

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JUBILANT
AGRI & CONSUMER PRODUCTS

TO WHOMSOEVER IT MAY CONCERN

I Ajay Kumar Singh (Manager Export) of (Jubilant Agri & Consumer Products Ltd.), situated at Greater Noida, hereby declare that:

a) The information given in this letter is true, correct and complete in every respect.

b) (Jubilant Agri & Consumer Products Ltd.) has received services from M/s All Cargo Logistics Park Private Limited (STC – AAHCA1790MSD001) and invoices (Below mentioned list Annexure A) have been raised on us during April 2012 to June 2012 towards the provision of handling services in relation to export cargo.

For Jubilant Agri & Consumer Products Ltd.

Ajay Kumar Singh
(Manager Export)
Date: 14.07.216

Annexure A

S. No.	Customer Name	Invoice No.	Date	Amount
1	Jubilant Agri & Consumer Products Ltd.	ALP/002864	18-04-12	4415.74
2	Jubilant Agri & Consumer Products Ltd.	ALP/002996	22-04-12	7387.43
3	Jubilant Agri & Consumer Products Ltd.	ALP/002995	22-04-12	7387.43
4	Jubilant Agri & Consumer Products Ltd.	ALP/002994	22-04-12	8735.75
5	Jubilant Agri & Consumer Products Ltd.	ALP/002993	22-04-12	8735.75
6	Jubilant Agri & Consumer Products Ltd.	ALP/002992	22-04-12	11432.38
7	Jubilant Agri & Consumer Products Ltd.	ALP/003132	25-04-12	10084.07
8	Jubilant Agri & Consumer Products Ltd.	ALP/003065	25-04-12	8735.75
9	Jubilant Agri & Consumer Products Ltd.	ALP/003178	26-04-12	12780.71
10	Jubilant Agri & Consumer Products Ltd.	ALP/003181	26-04-12	8735.75
11	Jubilant Agri & Consumer Products Ltd.	ALP/003182	26-04-12	8735.75
12	Jubilant Agri & Consumer Products Ltd.	ALP/003471	08-05-12	10084.07
13	Jubilant Agri & Consumer Products Ltd.	ALP/003599	11-05-12	8735.74
14	Jubilant Agri & Consumer Products Ltd.	ALP/003751	18-05-12	8460.71
15	Jubilant Agri & Consumer Products Ltd.	ALP/003826	21-05-12	14129.00
16	Jubilant Agri & Consumer Products Ltd.	ALP/003894	22-05-12	10084.00
17	Jubilant Agri & Consumer Products Ltd.	ALP/004236	28-05-12	10084.00
18	Jubilant Agri & Consumer Products Ltd.	ALP/004320	01-06-12	8736.00
19	Jubilant Agri & Consumer Products Ltd.	ALP/004369	01-06-12	10084.00
				177564.03

A Jubilant Industries Company

OUR VALUES

Jubilant Agri and Consumer Products Limited
Plot No. 15, Knowledge Park II,
Greater Noida, Distt. Gautam
Budh Nagar - 201 306, UP, India
Tel: +91 120 7186000
Fax: +91 120 7186140
www.jacpl.co.in

Regd. Office:
Bhartiagram, Gajraula
Distt. Amroha-244 223
UP, India
CIN: U52100UP2008PLC035862

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Al Aali Exporters Pvt. Ltd.

Exporters of Fresh & Fresh Frozen Foods

First Floor, 5, Bazar Lane, Bengali Market, New Delhi-110001
Tel. : 91-11-23327745 Mobile : 9999847472
CIN No. U51909DL2010PTC204184
Email : qaiser@alaaliexports.com Website : www.alaaliexports.com

TO WHOMSOEVER IT MAY CONCERN

I MOHD SADIQ (Accounts Manager) of Al Aali Exports Pvt Ltd, situated at R-880, New Rajinder Nagar, New Delhi-110060 hereby declare that:

a) The information given in this letter is true, correct and complete in every respect.

b) M/s Al Aali Exports Pvt Ltd has received services from M/s All Cargo Logistics Park Private Limited [STC - AAHCA1790MSD001] and invoices (listed in Annexure A which is attached herewith) have been raised on us during April 2011 to June 2012 towards the provision of cargo handling services in relation to export cargo.

For Al Aali Exports Pvt Ltd
For AL AALI EXPORTS PVT. LTD.

Authorised Signatory
(Auth.Sig)

MOHD SADIQ (Accounts Manager)

Date: 13/07/2016

Details in Annexure A

S. No.	Customer Name	Invoice No.	Date	Amount
1	AL AALI EXPORTS PVT LTD	ALP/004734/11-12	6/8/2012	3067.00
2	AL AALI EXPORTS PVT LTD	ALP/004724/11-12	6/8/2012	4416.00
3	AL AALI EXPORTS PVT LTD	ALP/004658/11-12	6/12/2012	4416.00
4	AL AALI EXPORTS PVT LTD	ALP/004660/11-12	6/12/2012	3067.00
5	AL AALI EXPORTS PVT LTD	ALP/004887/11-12	6/13/2012	9809.00
6	AL AALI EXPORTS PVT LTD	ALP/004888/11-12	6/13/2012	10084.00
7	AL AALI EXPORTS PVT LTD	ALP/004996/11-12	6/14/2012	3067.00
8	AL AALI EXPORTS PVT LTD	ALP/005002/11-12	6/14/2012	371.00
9	AL AALI EXPORTS PVT LTD	ALP/005057/11-12	6/16/2012	3067.00
10	AL AALI EXPORTS PVT LTD	ALP/005066/11-12	6/16/2012	8736.00
11	AL AALI EXPORTS PVT LTD	ALP/005067/11-12	6/16/2012	8736.00
12	AL AALI EXPORTS PVT LTD	ALP/005096/11-12	6/18/2012	371.00
13	AL AALI EXPORTS PVT LTD	ALP/005098/11-12	6/18/2012	1719.00
14	AL AALI EXPORTS PVT LTD	ALP/005113/11-12	6/18/2012	10084.00
		TOTAL-		71010.00

TITANIC

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TO WHOMSOEVER IT MAY CONCERN

I Indra Singh Bisht, Finance manager of the Titanic ocean Services (Pvt) Ltd. situated at Noida hereby declare that:

a) The information given in this letter is true, correct and complete in every respect.

b) Titanic ocean Services (Pvt) Ltd. has received services from M/s All Cargo Logistics Park Private Limited (STC – AAHCA1790MSD001) and invoices (listed in Annexure A which is attached herewith) have been raised on us during April 2011 to June 2012 towards the provision of cargo handling services in relation to export cargo.

For Titanic ocean Services (Pvt) Ltd

Titanic Ocean Services (Pvt) Ltd

Authorised Signatory

Name: - Indra Singh Bisht

Designation: - Finance Manager

Date: 13.07.2016

Details in Annexure A

S. No.	Customer Name	Invoice No.	Date	Amount
1	Titanic Ocean Services	ALPPL/EX/0018	09/12/2011	2700.00
2	Titanic Ocean Services	ALPPL/EX/0046	31/12/2011	2700.00
3	Titanic Ocean Services	ALPPL/EX/0085	10/01/2012	2700.00
4	Titanic Ocean Services	ALPPL/EX/0107	19/01/2012	2700.00
5	Titanic Ocean Services	ALPPL/EX/0180	27/02/2012	33108.75
6	Titanic Ocean Services	ALP/002603	07/04/2012	4920.00
7	Titanic Ocean Services	ALP/002601	07/04/2012	2720.00
				51548.75

TITANIC OCEAN SERVICES (PVT) LTD.

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Tel. : +91 120 4886333 (30 Lines)

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CIN No.: U63090DL1996PTC076067

Cargo Logistics Park Pvt. Ltd. CFS-Dadri

Regd. Office . C-5/123, Sector-6, Rohini, Delhi-110085

4.9 In view of the specific exclusion of the charges collected by the appellant towards handling of the export cargo from their client from the definition of "cargo handling service" as per Section 65 (23) of the Finance Act, 1994 and decisions referred in para 4.3 we do not find any merits in the demand of service tax made in respect of these charges under this taxable category.

4.10 As we do not find any merits in the impugned order demanding the service tax and as the demand is set aside on the merits itself, we are not going into the issue of limitation. Penalties imposed are set aside as the demand of service tax is set aside.

5.1 Appeal is allowed.

(Operative part of the order pronounced in open court)

Sd/-
(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

Sd/-
(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

akp