CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Service Tax Appeal No.70689 of 2018

(Arising out of Order-in-Appeal No.101-ST/APPL-ALLD/LKO/2018 dated 06/02/2018 passed by Commissioner (Appeals), Customs GST & Central Excise, Lucknow)

M/s Vardhman Exports **.....Appellant**

(768, Musafffarganj, Mirzapur, U.P.)

VERSUS

Commissioner CGST

& Central Excise, Varanasi **....Respondent**

(Commissioner, CGST & Central Excise

Commissionerate, Varanasi.)

APPEARANCE:

Shri S.P. Ojha, Consultant for Appellant
Shri Santosh Kumar Agarwal, Authorized Representative for Respondent

CORAM :
Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)
Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 71902 / 2019

DATE OF HEARING: 31 October, 2019
DATE OF DECISION: 31 October, 2019

ARCHANA WADHWA

The dispute in the present appeal relates to refund of Rs.1,45,907/- paid by the appellant as service tax on various input services like courier agency service, customs house services, clearing and forwarding agent services, cargo handling services, ship management service and airport service utilized by the appellant for export of the cargos. The said refund claim stands filed by the appellant in terms of Notification No.41/2012 dated 29 June, 2012.

2. After proper adjudication the claim was rejected by the Lower Authorities on the sole ground that the services have been availed at the port area and as such are not covered by the notification in question.

3. Apart from the fact that the Tribunal in various decisions has held that such services availed at port area are admissible for refund of service tax paid on the same in terms of Notification No.41/2012-ST, we also note that the said notification was further amended vide Notification No.1/2016-ST dated 03 February, 2016 holding that the taxable service utilized beyond factory or in other place or premise of production or manufacture of the goods, further export would be considered as services entitled to the refund of tax paid on the same. Subsequently, vide boards clarification issued vide DOF No.334/8/2016 TRV dated 29 February, 2016, it was clarified that the said notification No.01/2016 is retrospective and would be effective from the date of the application of the parent notification. It was further clarified that in terms of the said notification, the service tax paid on various services used beyond the factory or in other place would be admissible for refund.

4. In view of the forgoing, we set aside the impugned order and allow the appeal with consequential relief to the appellant.

(Dictated and Pronounced in open Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

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