CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 3268 of 2012

(Arising out of Order-in-Appeal No.185/2012 – C.E dated 23.07.2012 passed by the Commissioner of Central Excise (Appeals-I), Bangalore)

M/s. Universal Textile Mills
No.44, Gudahatti Main Road,
Neralur Post Attibele,
Bangalore - 562 107.

Appellant(s)

VERSUS

The Commissioner of Service Tax,
No.16/1, 5th Floor, S.P. Complex,
Lalbagh Road,
Bangalore - 560 027.

Respondent(s)

APPEARANCE:

Shri. Mayank Srivastava, Advocate for the Appellant

Shri Neeraj Kumar, Superintendent (AR) for the Respondent

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20767 /2025

DATE OF HEARING: 28.05.2025
DATE OF DECISION: 28.05.2025

PER : P.A. AUGUSTIAN

The issue in the present appeal is whether the appellant who had submitted refund claim had complied with the conditions of Notification No.17/2009-ST dated 07.07.2009. Appellant is engaged in the manufacture and export of Natural Silk Fabrics/Madeups/Sarees. Appellant had submitted a refund claim on 18.06.2010 for refund of service tax paid towards services received for export of finished goods and after issuing show-cause notice, adjudicating authority partially allowed the refund claim. Aggrieved by the said order, department issued review order and the appellate authority as per the impugned order allowed the appeal filed by the department on the ground that the appellant had not satisfied the conditions of Notification No.17/2009-ST dated 07.07.2009 and set aside the order allowing refund. Aggrieved by the said order, present appeal is filed.

2. When the appeal came up for hearing, the learned counsel drew our attention to the Notification No.17/2009-ST dated 07.07.2009 and submits that as regarding inspection and certification agency services, there is no conditions imposed on the appellant as per the above Notification and the order rejecting the impugned Order-in-Original on the said ground is unsustainable. The appellant had also drew our attention to the other services including Custom House Agent services, Courier services and Clearing and Forwarding services and submitted that the impugned order is issued without considering the details furnished by the appellant and the finding given by the adjudicating authority. The learned counsel also drew our attention to the Annexure-A statement produced by the appellant as part of the refund claim and submitted that the entire details as required for refund including the name of service provider, service tax registration, description, invoice, details of payment of service tax were furnished to the adjudicating authority and only after considering the issue in detail; the adjudicating authority partially allowed the refund claim. There is no other requirement under the above Notification and the impugned order rejecting the refund claim is unsustainable. Learned counsel also relied on the decision of the Tribunal in the matter of **M/s. Star Silk Export Pvt. Ltd. Vs. CCCE: 2024 (6) TMI 302 – CESTAT – Kolkata**.

3. Learned Authorised Representative (AR) for the Revenue reiterating the findings of the appellate authority in the

impugned order, submitted that the appellate authority allowed the department's appeal only after considering the entire issue and appeal is unsustainable.

4. Heard both sides. We have gone through the Notification No.17/2009-ST dated 07.07.2009 and the refund application submitted by the appellant. On scrutiny of the refund application, it is evident that the appellant had furnished the entire details as required for processing the refund claim and adjudicating authority had rightly held that the appellant is eligible for the refund and partially allowed the refund claim. In the absence of any condition in the Notification No.17/2009-ST dated 07.07.2009, claim cannot be rejected as done by the appellate authority. Considering the above, the impugned order is set aside and the appeal is allowed with consequential relief, if any in accordance with law.

(Operative portion of the order was pronounced in Open Court on conclusion of hearing.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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