

Customs, Excise & Service Tax Appellate Tribunal
SCO 147-148, SECTOR-17-C, CHANDIGARH-160017

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| Sr. No | Case No         | Impugned Order Detail's | Date of Impugned Order | Passed By                                | Appellant                       | Respondent       |
|--------|-----------------|-------------------------|------------------------|------------------------------------------|---------------------------------|------------------|
| 1      | ST/156/2010-SMC | OIA-36/MA/GGN/2009-10   | 21/01/2010             | Commissioner of Central Excise-DELHI-III | Ms Richa Global Exports Pvt Ltd | C.C.E.-Delhi-iii |
| 2      | ST/157/2010-SMC | OIA-37/MA/GGN/2009-10   | 21/01/2010             | Commissioner of Central Excise-DELHI-III | Ms Richa Global Exports Pvt Ltd | C.C.E.-Delhi-iii |
| 3      | ST/158/2010-SMC | OIA-38/MA/GGN/2009-10   | 21/01/2010             | Commissioner of Central Excise-DELHI-III | Ms Richa Global Exports Pvt Ltd | C.C.E.-Delhi-iii |

**Represented by:**

For Appellant (s) : Shri R. K. Hasija, Advocate

For Respondent (s): Shri M. S. Dhindsa, AR

**CORAM :**

**Mr. Ashok Jindal, Hon'ble Member (Judicial)**

Date of Hearing/Decision: 10.01.2019

**FINAL ORDER No. A/60014-60016 / 2019**

***Per : Mr. Ashok Jindal***

The appellant filed these appeals against the impugned orders wherein their refund claims were rejected for the services used in export of goods and refund claims filed under Notification No. 41/2007-ST dated 06.10.2007.

2. The facts of the case are that the appellant has exported the goods and filed the refund claims for services used in export of goods under Notification No. 41/2007-ST dated 06.10.2007. The refund claims were rejected on the ground that as appellant is claiming drawback on the export of goods, therefore, the services in question, they are not entitled to take cenvat credit and consequently cannot filed refund claims for the

same. The refund claims were also rejected on the ground that the appellant has not provided any proof of payment of service tax on the services in question and technical testing and inspection service was not in the service which has mentioned in the purchase order for availing the said service by the appellant before export.

3. Heard the parties.

4. Considering the fact that on the issue No. 1 i.e. if the appellant is availing drawback of duty paid on export of goods, whether the appellant can filed refund claim under Notification No. 41/2007-ST dated 06.10.2007 for the services in using the export of goods or not?

5. The said issue has been examined by this Tribunal in the case of ***Mittal International vs. Commissioner of Central Excise, Rohtak/Gurgaon [2017 (5) GSTL 186 (Tri.-Chan.)]*** wherein this Tribunal has held that the services in question have been used by the appellant for export of goods which does not form part of drawback claim, therefore, the appellant is entitled for refund claim of the services in question which has been used for export of goods. In view of the decision of this Tribunal in the case of ***Mittal International (supra)***, I hold that the appellant is entitled to claim refund of the services in question which has been used for export of goods. Therefore, on that ground, the refund claim cannot be rejected.

6. For the remaining issue i.e. proof of payment of service tax on the services in question and technical testing analysis, the appellant has produced the documents before me which have not been produced by the

appellant before the authorities below, in that circumstances, the matters are remanded back to the adjudicating authority to examine the documents produced before me by the Ld. Counsel of the appellant and thereafter to pass an appropriate order in accordance with law.

7. In result, the appeals are disposed of by way of remand.

*(Dictated & pronounced in the Court)*

**(Ashok Jindal)**  
Member (Judicial)

G.Y.