CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 60312 of 2018

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-182-17-18 dated 19.12.2017 passed by the Commissioner (Appeals), CGST, Ludhiana]

Indian Acrylics Ltd. **......Appellant**
Vill. Harkishan Pura, Patiala,
Sangrur Highways, Bhawanigarh,
Sangrur, Punjab-148026

VERSUS

Commissioner of Central Excise, Ludhiana **......Respondent**
GST Bhawan, F-Block, Rishi Nagar,
Ludhiana, Punjab-141001

APPEARANCE:

Shri Sudeep Singh Bhangoo, Advocate for the Appellant

Ms. Amita Gupta, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60471/2026

DATE OF HEARING: 17.07.2026
DATE OF DECISION: 30.07.2026

P. ANJANI KUMAR:

Indian Acrylics Ltd., the appellants, challenged the impugned order dated 19.12.2017 passed by Commissioner (Appeals) GST, Ludhiana.

2. The appellants are engaged in manufacture of goods falling under Chapter 55 of Central Excise Tariff Act; the appellants availed exemption from payment of duty in terms of Notification No.18/2009-ST dated 07.07.2009 and Notification No.42/2012-ST dated 29.06.2012; the appellants have engaged commission agents to further their business in overseas locations. During the scrutiny of Returns and records of the appellants, it appeared to the Revenue that for the period 01.10.2012 to 31.03.2013, the appellants did not file EXP-3 and they have violated the provisions of Clause (e) of the Notification No.42/2012 and therefore, the exemption was not available to the appellants; it also appeared in respect of four shipping bills i.e pertaining to Invoice No.1176, 1177, 1186 & 1193, commission was payable and applicable service tax was not paid. A show cause notice dated 03.09.2014 was issued demanding service tax of Rs.1,47,040/-. The Original Authority vide impugned order dated 18.08.2015 dropped the proceedings against the appellants on the grounds that procedural infractions should not take away the substantial benefit due to the appellants and that the appellants did not pay commission on the four shipping bills cited above and as such, they are not liable to pay any duty. On an appeal filed by the Revenue, Commissioner (Appeals) set aside the original order and confirmed the proposals in the show cause notice on the grounds that the appellant is not eligible for the benefit of the Notification as they have not complied with the conditions prescribed thereof.

3. Shri Sudeep Singh Bhangoo, learned counsel for the appellants, submits that the observation of the learned

Commissioner that the appellant has failed to submit EXP-3 Return is incorrect; Para 3 of the show cause notice clearly states that the EXP-3 Returns were not filed in time; the appellant filed the EXP-3 Returns vide letter dated 15.01.2023. He also submits that the averment of learned Commissioner that the appellant has not submitted the original documents along with EXP-4 is contradictory to his own findings that the documents submitted by the appellants were not properly authenticated/ certified, which clearly means that the documents were submitted. He also submits that they have produced evidence to the effect that no commission was paid in respect of Invoice Nos.1176, 1177 & 1193 and that in respect of Invoice No.1186 dated 17.01.2023, the Indian Agent i.e M/s Teretex Trading Corporation, Kolkata have paid the duty. He relies on Radiant Textiles Ltd. – 2017 (47) STR 195 (Tri. Chd.) and Praj Industries Ltd. – 17 (3) GSTL 341 (Tri. Mumbai).

4. Ms. Amita Gupta, learned Authorized Representative for the Department reiterates the findings of the impugned order. She relies on Circular No.334/13/2009-TRU dated 06.07.2009 and submits that the conditions are mandatory and non-compliance of the same disentitles the appellant from the benefit of the exemption notification. She relies on the following cases:

- Eagle Flask Industries Limited – 2004 (171) ELT 296 (SC)
- Uttam Industries – 2011 (265) ELT 14 (SC)
- D.D. International Pvt. Ltd. – 2016 (41) STR 868 (Tri. Del.)
- Neelkanth Polymers – (2024) 17 Centax 98 (Tri. Del.)

5. Heard both sides and perused the records of the case. We find that the allegation of the Revenue is that the appellant has not filed the EXP-3 Returns and that they have not submitted any documents required along with EXP-4. However, we find that the records of the case indicate that the appellants have submitted EXP-3 on 15.01.2023. The only issue that is to be seen is whether the delay in filing would make the appellant disentitled. Regarding the other allegation that the appellant has not submitted necessary documents, we find, as submitted by the learned counsel for the appellants that the observations of the learned Commissioner are self-contradictory. At one place, he finds that the documents are not authenticated and on the other hand, avers that the documents are not submitted. In view of the contradictory findings, the allegation does not sustain. Moreover, it is on record that the appellants have submitted a common declaration certificate/ composite certificate in respect of all the shipping bills. Coming to the delay in filing the EXP-3 Returns, we find that the delay does not amount to violation of mandatory provisions so as to disentitle the appellants from the benefit of the Notification. To this extent, we find that the cases relied upon by the learned Authorized Representative for the Revenue are not applicable as the issue in the impugned case before us is about delayed submission rather than non-submission. Similarly, we find that Revenue could not establish that the appellants have paid commission in respect of the four shipping bills in dispute.

6. We find that the original authority has examined all the relevant facts of the case and has concluded categorically as follows:

> As such, I find that demand of services tax of Rs.1,25,130/- and Rs. 21,910/-alongwith interest and penalty is not imposable on the noticee as they have fulfill clause (d) and (e) of the exemption notification as discussed above which proves that the noticee has used the services of commission agent located outside India in export of their goods for which they have also made the payment as established from of swift message / message report for outward remittance issued by the Bank and only point remains is non filing of filing of EXP-3 which can be condonable as the substantial benefit cannot be disallowed for non-observance of a procedural requirement as discussed above.

7. Moreover, we find that in the case of Radiant Textiles (supra) this Bench held as follows:

> **9.** The facts of the case are not disputed that the appellant is receiving service of overseas commission agent and paying commission to the said agent. The benefit of notification has been denied due to reason that the appellant has not produce BRC and have not filed original copy of invoices and the return form the EXP-1 and EXP-2. In fact, the basic of requirement of notification has not been disputed by the Revenue, therefore, substantive benefit cannot be denied on account of technical lapses has held by the Hon'ble High Court of Bombay in the case of *Union of India* v. *Farheen Texturisers* (supra). Further by the Hon'ble High Court of Allahabad in the case of *J.S. Gupta & Sons* (supra) the payment made to the overseas commission agent not in disputed. The appellant has filed all the shipping bills and copy of invoices issued by the overseas agent. These fact has not been disputed by the Revenue. In that circumstance, I hold that the appellant has complied with the condition of the notification. Further, I observed that the

Commissioner paid to the overseas commission agent is less than 1% of the FOB value of the exported goods. Therefore, the appellant is entitled for benefit under Notification No. 18/2009-S.T. Consequently, no Service Tax can be demanded under the category of 'Business Auxiliary Services' under reverse charge mechanism.

8. In view of the above, the appeal is allowed with consequential relief, if any, as per law.

(Order pronounced in the open court on 30/07/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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