IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

Appeal No. C/259/2012

(Arising out of Order-in-Appeal C.Cus. No.485/2012 dated 22.6.2012 passed by the Commissioner of Customs (Appeals), Chennai)

M/s. Wipro Ltd. Appellant

Vs.

Commissioner of Customs, Chennai Respondent

Appearance

Ms.Cynduja Crishnan, Advocate for the Appellant
Shri K. Veerabhadra Reddy, JC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **24.04.2018**

Final Order No. **41311 / 2018**

Per Bench

Brief facts are that the appellant filed refund claim for refund of special additional duty (SAD) in terms of Notification No. 102/2007 dated 14.9.2007. The original authority rejected the refund claim on the ground that only photocopies of the Bills of Entry, TR6 challans and sales invoices were produced by the appellant. Thus, for want of production of original documents, refund claim was rejected, which was later upheld by Commissioner (Appeals). Hence this appeal.

2. On behalf of the appellant, ld. counsel Ms. Cynduja Crishnan submitted that the appellant had produced all the copies of the documents along with Chartered Accountant’s certificate. She submitted that it may not be practically possible for an assessee to produce all the originals of the Bills of Entry, TR6 challans as well as sales invoices. When there is no dispute with regard to correlation of the import and the sales invoices as supported by Chartered Accountant’s certificate, the rejection of refund is unjustified. It is also stressed by the ld. counsel that the department cannot insist on producing originals of the documents when the notification itself says that copies of the document have to be provided. She relied upon Circular No. 16/2008-Cus. dated 13.10.2008 and submitted that the circular has clarified that it is sufficient to produce copy of invoices. She relied upon the decision in the case of Commissioner of Customs Vs. Camco Multi Metal Ltd. – 2017 (358) ELT 349 (Tri. All.) wherein the Tribunal has dispensed with the requirement of producing originals of the document by referring to the above circular issued by the Board.

3. The ld. AR Shri K. Veerabhadra Reddy reiterated the findings in the impugned order.

4. Heard both sides.

5. We find that the ground for rejection of refund is that the appellant has not produced originals of the Bills of Entry, TR6 challan and sales invoices. On perusal of Notification No.102/2007, we find that there is no requirement of producing the originals before the refund sanctioning authority. Therefore the authorities below cannot insist that the appellant has to produce the original document. The original authority has noted in the order that the appellant has produced copies of all documents along with Chartered Accountant's certificate. In such circumstances, the rejection of the refund claim stating that the appellant has not produced original Bills of Entry, TR6 challan and sales invoices is unjustified. The Circular clarifies the same. In the event, we hold that the rejection of refund claim requires to be set aside, which we hereby do. The appeal is allowed with consequential relief, if any.

(Operative portion of the order was
pronounced in open court)

(**Madhu Mohan Damodhar**)
Member (Technical)

(**Sulekha Beevi C.S.**)
Member (Judicial)

Rex