IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. I

Customs Appeal No. 42176 of 2013

(Arising out of Order-in-Appeal C.Cus. No. 1006/2013 dated 16.07.2013 passed by the Commissioner of Cus. (Appeals), 60, Rajaji Salai, Custom House, Chennai – 600 001)

The Commissioner of Customs, **: Appellant**
Export Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001

VERSUS

M/s. Chakrapani Vyapar Private Limited, **: Respondent**
No. 6, 1st Cross Street,
Sylvan Lodge Colony, Kilpauk,
Chennai - 600 010

APPEARANCE:

Shri. S. Balakumar, Authorized Representative (A.R.) for the Appellant

Shri. Ramesh Ananthan, Advocate for the Respondent

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

FINAL ORDER NO. 40015 / 2020

DATE OF HEARING: 18.12.2019

DATE OF DECISION: **20.01.2020**

This appeal is filed by the Revenue against the Order-in-Appeal C.Cus. No. 1006/2013 dated 16.07.2013.

2. The grounds *inter alia* agitated by the Revenue are that the refund claim was not based on the supporting documents and that the refund was sanctioned without verification of the supporting documents in respect of 24

Bills-of-Entry covered under the refund claim dated 04.05.2011.

3. Shri. S. Balakumar, Ld. Authorized Representative appearing for the Revenue, relied on the grounds-of-appeal and accordingly requested for allowing the appeal. Shri. Ramesh Ananthan, Ld. Advocate appearing for the assessee-respondent, supported the findings of the First Appellate Authority. Ld. Advocate would also submit that the Order-in-Original was passed wherein the refund was sanctioned after due verification of the relevant documents, as mentioned from paragraph 2 onwards of the Order-in-Original No. 18442/2012. Ld. Advocate also referred to the other clear findings of the Adjudicating Authority as to the complete satisfaction of the said authority both with regard to the assessee's claim as well as the supporting documents and accordingly submitted that the Revenue's appeal is frivolous, which has to be dismissed with costs.

4. I have considered the rival contentions and gone through the orders of lower authorities and I find the assertion of the Ld. Advocate for the assessee to be correct insofar as the findings of the Adjudicating Authority are concerned. It is clear that the Adjudicating Authority has sanctioned the refund after going through the original documents placed on record, a copy of which was also filed before the First Appellate Authority. The Revenue having not been able to locate the original documents, is apparently seeking indulgence at the cost of the taxpayer, which cannot be appreciated.

5. The First Appellate Authority has not suspected the arguments of the assessee as regards filing of necessary documents before the Adjudicating Authority, the acknowledged copy of the letter of which was also duly verified by him and the Revenue has not been able to disprove the above factual findings.

6. In view of the above, I have to dismiss the Revenue's appeal being not only devoid of merit but also being frivolous.

7. The appeal therefore stands dismissed.

(Order pronounced in the open court on **20.01.2020**)

Sd/-

(P. DINESHA)
MEMBER (JUDICIAL)

Sdd