

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI**

Customs Appeal No.40024 of 2020

(Arising out of Order-in-Appeal Seaport C. Cus. II No. 410/2019 dated 27.9.2019 passed by the Commissioner of Customs (Appeals – II), Chennai)

M/s. Ganpat Rai Shri Ram & Co.

1300 A/19 Sant Nagar
Huda Complex
Rohtak, Haryana – 124 001.

Appellant

Vs.

Commissioner of Customs

Chennai II Commissionerate
Custom House, No. 60, Rajaji Salai
Chennai – 600 001.

Respondent

APPEARANCE:

Shri Sagar Rohatgi, Advocate for the Appellant
Shri M. Jagan Babu, AC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Final Order No. **41614 / 2021**

Date of Hearing: 25.06.2021
Date of Decision: 25.06.2021

The above appeal is filed by the appellant against the order passed by the authorities below rejecting the claim of refund of SAD as per Notification No. 102/2007 dated 14.9.2007.

2. On behalf of the appellant, Id. Counsel Shri Sagar Rohatgi appeared and argued the matter. He submitted that the appellant had not been able to submit necessary documents along with the refund claim. The department had issued two deficiency memos instructing the appellant to file necessary documents. The appellant had entrusted the work to one of his staff to comply with the necessary formalities. However, the staff left the appellant's company without informing that

he has not complied with those formalities. The appellant was under the impression that the staff entrusted with the work had filed the necessary documents. The appellant has filed the Chartered Accountant's certificate, VAT returns for reconciliation etc. along with this appeal. He prayed that the appellant should be given a further chance to submit the documents.

3. The Id. AR Shri M. Jagan Babu supported the findings in the impugned order. He vehemently argued that the appellant was given sufficient time to furnish the documents.

4. Heard both sides. It is seen that the appellant has not furnished necessary documents even after two deficiency memos. The Id. Counsel has explained the circumstances that the omission to file the documents occurred since the staff entrusted with the work had not complied with the formalities or inform the appellant with regard to non-filing of the documents. Taking these facts into consideration, I am of the view that the appellant has to be given a further chance to furnish the documents. The matter is remanded to the refund sanctioning authority who shall reconsider the refund claim on merits and also give sufficient opportunity to the appellant to furnish documents and for personal hearing. The impugned order is set aside and the appeal is allowed by way of remand with the above directions.

(Dictated in open court)

(SULEKHA BEEVI C.S.)
Member (Judicial)