

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

ST/00616,006 24/2009

[arising out of Order-in-Appeal No.146/2009 (SLM) (ST), dated 23.09.2009
passed by the Commissioner of Central Excise (Appeals), Salem]

COMMISSIONER OF CENTRAL EXCISE, SALEM
M/s. PKPN SPINNING MILLS (P) LTD.

APPELLANT/S

Versus

M/s. PKPN SPINNING MILLS (P) LTD.
COMMISSIONER OF CENTRAL EXCISE, SALEM

RESPONDENT/S

Appearance:

For the Revenue Shri K.P. Muralidharan, AC (AR)

For the Assessee Ms. Nivedita Mehta, Adv.

CORAM:

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

Date of hearing/decision **11-08-2017**

FINAL ORDER NO. 1.41706 - 41707/2017

Per Bench:

The issue involved is whether appellant is liable to pay service tax on the commission paid to foreign agents under the reverse charge mechanism. The parties are referred to as "assessee" and "department" for the sake of convenience.

2. The respondents are engaged in manufacture and export of "textile yarn". Show-cause notice was issued for the period

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09.07.2004 to 30.11.2007 proposing to demand service tax on the commission paid to overseas commission agent under reverse charge mechanism. The original authority confirmed the demand and in appeal, the Commissioner (Appeals) set aside the demand prior to 18.04.2006 and confirmed the demand from 18.04.2006 to 30.11.2007. Against such confirmation, the assessee has filed Appeal No.ST/00624/2009 and against the setting aside of demand prior to 18.04.2006, department has filed Appeal No.ST/00616/2009.

3. On behalf of the appellant, the learned counsel Ms. Nivedita Mehta submitted that the said issue, whether appellant is liable to pay service tax prior to 18.04.2006 is settled by the judgment in the case of *Union of India Vs Indian National Shipowners' Association 2011 (21) S.T.R.3 (S.C.)*. That as per Notification No.14/2004-ST, dated 10.09.2004, the appellant being engaged in textile processing is exempted from paying service tax. She relied on the decision in the case of *Texyard International Vs Commissioner of Central Excise, Trichy* reported in 2015 (40) S.T.R. 322 (Tri.-Chennai), *M/s. Arvind A. Traders Vs Commissioner of Central Excise & Service Tax, Trichy* reported in 2016 (44) S.T.R. 264 (Tri.-Chennai).

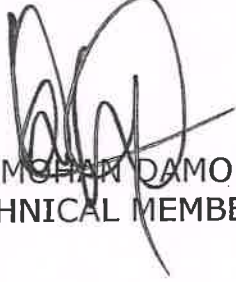
4. Learned Authorised Representative Shri K.P. Muralidharan reiterates findings in impugned order.

5. Heard both sides. We find that the issue whether the appellant is liable to pay service tax for the entire disputed period is settled by the decision rendered in the cases relied by appellant. Following the same, we find that the demand after 18.04.2006 is also not sustainable. Hence, the impugned order sustaining the demand after 18.04.2006 is set aside.



6. In the result, the Appeal No.ST/00624/2009 filed by "assessee" is allowed with consequential reliefs, if any. The Appeal No.ST/00616/2009 filed by "department" is dismissed.

(Operative part of the order pronounced
in open court on **11.08.2017**)



(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER



(SULEKHA BEEVI C.S)
JUDICIAL MEMBER



प्रमाणित प्रति / Certified True Copy

सहायक पंजीकार / Asst. Registrar
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