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

C/EH/40649/2017 and C/42240/2014

(Arising out of Order-in-Appeal C. Cus. No. 1525/2014 dated 21.8.2014 passed by the Commissioner of Customs (Appeals), Chennai)

M/s. MTC Business P. Ltd. Appellant

Vs.

Commissioner of Customs, Chennai Respondent

Appearance

Shri E. Ramesh, Consultant for the Appellant
Shri R. Subramaniyam, AC (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: **27.10.2017**

Final Order No. 42481/2017

Per Bench

The above appeal is taken up for hearing as per the early hearing application filed by the appellant seeking to hear the case out-of-turn for the reason that the issue stands covered by various decisions of the Tribunal.

2. Brief facts of the case are that the appellant filed refund claim for refund of SAD on the goods sold after import. The said claim was rejected on the ground that the sales invoices were not having the endorsement regarding non-availment of

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CENVAT credit as required in terms of condition in para 2(b) of the Notification No. 102/2007. The original authority rejected the refund claim which was upheld by the Commissioner (Appeals). Hence this appeal.

2. On behalf of the appellant, ld. consultant Shri Ramesh submitted that the issue stands covered by the decision of the Larger Bench in the case of Chowgule & Company Pvt. Ltd. Vs. Commissioner of Customs – 2014 (306) ELT 326 (Tri. – LB).

3. The ld. AR Shri R.Subramaniyam reiterated the findings in the impugned order.

4. Heard both sides.

5. We find that the refund claim has been rejected on the sole ground that the sales invoice do not have the endorsement as required in para 2(b) of Notification No.102/2007. The Larger Bench of the Tribunal in the case of Chowgule & Company Pvt. Ltd. (supra) has held that the said requirement is only a procedural one. Following the same, we find that the rejection of refund claim is unjustified and that the appellant is eligible for refund. The impugned order is set aside and the appeal is allowed with consequential relief, if any. The early hearing application stands disposed accordingly.

(Order dictated and pronounced in open court)

Sulekha Beevi

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

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

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