CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH REGIONAL BENCH : CHENNAI

APPEAL No. ST/91/2011

(Arising out of order in appeal No. 124/2010 (M III)ST dated 10.11.2010 passed by the Commissioner (Appeals), Central Excise, Chennai)

M/s Farida Prime Tannery Pvt. Ltd. Appellant

Vs.

CCE&ST, Chennai-III Respondent

Appearance:

None for Appellant

Shri Arul C. Durairaj (Supdt) AR for Respondent

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)

Hon'ble Mr. B. Ravichandran, Member (Technical)

Date of Hearing/ decision : 20/12/2017

FINAL ORDER NO.......43516/2017

Per: Archana Wadhwa:

On matter being called neither anybody appeared for the appellant nor is there any request for adjournment, inspite of the notice of hearing having been sent well in advance. We accordingly heard ld. AR appearing for the Revenue and have gone through the impugned order.

2. The issue involved in the present appeal is refund of service tax paid on various services utilised for export of goods in terms of Notification No. 41/2007-ST dated 06.10.2007. As per one of the conditions of the Notification such refund would not be admissible if the goods have been exported under the claim of drawback. It is not in dispute that the appellants have made exports under

Customs, Excise & Service Tax Appellate Tribunal drawback claim. The lower authorities have rejected the refund claim on the said ground.

3. The appellant have taken a stand that the Notification No. 41/2007-ST dated 06.10.2007 was subsequently amended vide Notification No. 33/2008-ST dated 07.12.2008 withdrawing the condition on non export of goods under the claim of drawback. The assessee's contention is that the said notification should be held to be retrospective in nature and the refund should be granted even if the exports were made under the claim of drawback.

4. We find that the Tribunal has considered an identical issue in the case of ***Art & Craft Inc. vs. Commissioner – Final Order No. 51013-51019/16 dated 10.03.2016*** has held that the said amending Notification No. 33/2008-ST withdrawing the condition of export of goods under drawback cannot be held to be effective retrospectively. The said decision of the Tribunal stands followed in number of other decisions. As such we find that the issue having been decided in favour of the Revenue there is no merit in assessee's appeal. The same is accordingly rejected.

(Operated part of the order pronounced in the open Court)

(B. Ravichandran) 2018
Member (Technical)

(Archana Wadhwa) 20/2/18
Member (Judicial)

Pant

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति/Certified True Copy
08/03/18
सहायक पंजीकार/Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर अपील अधिकारी/(CESTAT)
चेन्नै/CHENNAI