CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL NEW DELHI.

PRINCIPAL BENCH - COURT NO. II

Service Tax Appeal No. 55859 of 2014-SM

(Arising out of order-in-appeal No. 20-ST/MRT-I/2014 dated 15/22.05.2014 passed by the Commissioner (Appeals), Central Excise, Meerut-I).

M/s Sharda Exports **Appellant**
Plot No. 11, Sector-4
Integrated Industrial Estate
Ranipur, Haridwar.

VERSUS

Commissioner, Central Excise **Respondent**
Meerut-I, Mangal Pandey Nagar
Opp. C.C.S. University, Meerut (U.P.)

APPEARANCE:

None for the appellant
Sh. Gopi Raman, Authorised Representative for the respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO. 50348/2022

DATE OF HEARING/DECISION: 13.04.2022

ANIL CHOUDHARY:

The appellant is absent on call. Heard the learned Authorised Representative for the Revenue and perused the record. It is seen that appellant have not been appearing for the last several times. Earlier adjournments were allowed on 30.11.2021, thereafter on 19.01.2022 and again on 08.03.2022. Hence, the appeal is taken up for hearing.

2. Upon perusal of the impugned order, I find that the appellant is a manufacturer of carpet etc., which they are exporting. The appellant utilises certain services in the course of export like

transportation expenses from the factory to the gateway port, packing and forwarding expenses, CHA services, banking and financial services, terminal handling charges etc., which are utilised till the port of export/ gateway port.

3. The appellant is registered with the Service Tax Department and they had applied for refund of service tax of Rs.1,11,244/- under Notification No. 41/2012-ST, with refund application filed in form A-1 on 19.08.2013. As it is the scheme of the Government not to export taxes, to nullify the service tax suffered by the appellant exporter, they are entitled to refund of service tax paid in the course of manufacture and export of their goods. Further, I find that the Government of India by its Order No. 579-594/2012-CX. dated 21.05.2012 in F. No. 198/173-188/2010-KA, reported at **2012 (286) ELT 0461,** had clarified that in case of export of goods on CIF/CF basis, the place of removal is the port of export. I find that the Court below has refused refund of service tax as it appeared to them that the place of removal is the factory gate of the appellant manufacturer. I further find that the impugned order-in-appeal is cryptic and non-speaking.

4. Accordingly, considering the facts and circumstances and taking notice of the clarification by the Government of India with regard to place of removal in the case of export, I hold that the appellant is entitled to refund of service tax paid on the services received in course of export like - terminal handling charges, transportation of goods from factory to ICD and from ICD to gateway port of export, CHA services and banking financial services, clearing

and forwarding services, used by the appellant as an exporter, comprised in the amount of refund claim of Rs.1,11,244/-

5. Accordingly, in view of my findings, this appeal is allowed and the impugned order is set aside. The Adjudicating Authority is directed to grant the refund within a period of 45 days from the date of receipt / service of a copy of this order alongwith interest under Section 11BB of the Central Excise Act.

6. Thus, the appeal is allowed with consequential benefits.

(Dictated and pronounced in open Court).

(Anil Choudhary)
Member (Judicial)

Pant