IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. IV

Appeal No. ST/1285/2010-ST(SM)

[Arising out of Order-in-Appeal No. 252(DKV)ST/JPR-I/2010 dated 05.07.2010, by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Jaipur-I].

M/s. Dolphin Knit Pvt. Ltd. ....Applicants

Vs.

C.C.E. Jaipur-I ....Respondent

Appearance:

None for the Appellants
Shri M.R. Sharma, DR for the Respondent

CORAM:
Hon'ble Shri V. Padmanabhan, Member (Technical)

Date of Hearing: 04.01.2017

FINAL ORDER NO.50230/2017-ST(SM)

Per V. Padmanabhan:

The present appeal has been filed against the order in appeal dated 05.07.2010 passed by the Commissioner (A) Jaipur.

2. I find from the records that the appellant has not been represented to pursue his appeal in the last three years. Even today none appeared on behalf of the appellant. Since the appeal cannot be kept pending endlessly, I take up the issue for decision.

3. Heard Shri M.R. Sharma, DR for the Respondent and perused the records.

4. The appellant is engaged in the manufacture of knit wears which were subsequently exported. For the services used in export of these goods the appellant filed refund claim before the jurisdictional authorities under notification no. 41/2007-ST dated

06.10.2007 which provides for refund of service tax in respect of specified services used for export of goods. The notification permits refund subject to condition specified therein. The dispute relates to the refund claim to the extent of Rs.7,03,410/- under the above notification. In the first round of litigation part of the refund claim was sanctioned and the rest denied by the original authority. When the refund order was challenged before the Commissioner (A) he allowed some portion of the refund claims originally denied and remanded the matter for verification of the documents before allowing the refund of certain other services. After the second round of litigation the issue reached Commissioner (A) once again which was decided in the impugned order dated 05.07.2010.

5. The dispute now lies in a short compass. The appellant is agitating the denial of refund claims on the following two services:

i) Rs. 36,404/- in respect of transportation charges from ICD to port of export, and;

ii) Rs. 40,321/- in respect of testing and analysis services.

6. In respect of the issue (i) above, in the impugned order the claim stands rejected. The Commissioner (A) has carried out detailed verification of the invoices issued by the CONCUR who has undertaken transportation of the containers and hence concluded that in the invoice there is no mention of the export invoice number and the respective shipping bill number and consequently it cannot be co-related that the transportation charges are pertaining to the export consignment. Accordingly, he has rejected the refund claim for the transportation charges.

7. In respect of the second dispute the same has been rejected after verification of the relevant invoice issued by the M/s. Geo Chem Laboratories Pvt. Ltd. who has undertaken testing and analysis. After perusal of the invoice he has concluded that the documentation does not satisfy the fact that the testing and analysis services utilized is pertaining to the export consignment. Accordingly he has rejected the refund of Rs. 40,321/-.

8. Having perused the records as well as impugned order I find no reason to interfere with the impugned order. The Commissioner (A) has rejected the refund claim after carefully considering the relevant invoice and there is no reason to interfere with the same.

9. In view of the above the appeal is dismissed.

[Dictated and Pronounced in the open Court]

(V. Padmanabhan)
Member (Technical)

Bhanu