

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

Service Tax Appeal No. 786 of 2010 SM

[Arising out of Order-In-Appeal No. IND-I/67/2010 dated 25.2.2010 passed by Commissioner (Appeals I), Customs & Central Excise, Indore]

**Commissioner of Central Excise
Indore**

Appellants

Vs.

M/s. Bajrang Agro Industries Ltd.

Respondent

Appearance:

Shri R K Mishra, AR for the Appellants

Shri Kuldeep Singh with Shri Rohan Pahwa, Advocates for the Respondent

CORAM:

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

Date of Hearing /Decision: 1.02.2017

ORDER NO . FO/50591 /2017-(SM)

Per Ms. Archana Wadhwa :

Being aggrieved with the order passed by Commissioner (Appeals), Revenue has filed the present appeal.

2. After hearing both the sides duly represented by Shri R K Mishra, learned AR appearing for the Revenue and Shri Kuldeep Singh and Shri Rohan Pahwa, learned advocates appearing for the

respondent assessee, I find that the issue relates to refund of Service Tax paid on various services utilized for export purposes in terms of Notification No. 41/2007- ST. Commissioner (Appeals) has allowed the refund claim by appreciating that goods actually stand exported even though through the merchant exporter and the Revenue stand that the export should have taken place in the hands of the appellant cannot be appreciated. For arriving at the conclusion, Commissioner (Appeals) has referred to earlier decision of the Commissioner Appeals) in the case of *National Steel and Agro Industries Ltd.* [Final Order No. 53147/2016 Cu(DB) dated 11.8.2016].

3. It is seen that the earlier decision of the Commissioner (Appeals) in the case of *National Steel and Agro Industries* was also appealed against by the Revenue and Revenue's appeal was rejected as reported in [2016-TIOL-185 CESTAT-Delhi]. In that view of the matter, the present appeal of the Revenue is required to be rejected. I order accordingly.

(dictated and pronounced in the open court)

(Archana Wadhwa)
Member(Judicial)

SS