CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 150 of 2012

(Arising out of Order-in-Appeal No. 497(CB)ST/JPR-II/2011 dated 28.09.2011 passed by the Commissioner of Central Excise, Jaipur-II)

DATE OF HEARING : 15.02.2017
DATE OF DECISION : 15.02.2017

M/s R.S.W.M. Ltd. .... Appellants
(Rep. by Sh. Karan Sachdev, Adv.)

VERSUS

CCE, Jaipur-II .... Respondent
(Rep by Sh. Sanjay Jain, DR)

CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 51891/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the assessee-Appellants against the impugned order-in-appeal no. 497(CB)ST/JPR-II/2011 dated 28.09.2011 passed by the Commissioner of Central Excise (Appeals), Jaipur-II. The period in dispute is 07th September, 2009 to 30th September, 2009.

2. The brief facts of the case are that, the assessee-Appellants are manufacturer of manmade blended yarn and fabrics. They are also

engaged in the business of export of these goods. In order to export these goods, the assessee/Appellants have received the "Goods Transport Agency Services" for the transport of the goods from the factory premises to the port of export. Further, the assessee/Appellants had also engaged a foreign commission agent to whom they paid commission for procuring the export orders and realizing the payment of the exports outside India. They have also claimed the benefit of Notificatioon No. 18/2009-ST dated 07.07.2009 pertaining to the GTA services. The same was denied by the lower authorities. Being aggrieved, the assessee-Appellants have filed the present appeal.

3. With this background, we have heard Shri Karan Sachdev, learned counsel for the assessee-Appellants and Shri Sanjay Jain, learned DR for the Department, and perused their written submissions.

4. After hearing both sides and perusal of record, it appears that the Commissioner (Appeals) has observed that the assessee-Appellants have failed to produce the documents in respect of transport of goods service like (i) invoice, bill or challan, or any other document issued by service provider on which exemption is claimed; (ii) certificate that transport of goods by road has been received and used for export of goods by mentioning the Shipping Bill No. on said document; and (iii) documents in original. Since the original documents were not produced by the assessee-Appellants before the original authorities, their claim was denied. During the course of arguments, the learned counsel for the assessee-Appellants submits that the original documents are ready which can be produced before the lower authorities for verification. When it is so, then in the interest of justice we set aside the impugned order and remand the matter to the adjudicating authority to verify the said documents and decide the

issue *de novo* after providing a reasonable opportunity of hearing to the assessee-Appellants and adducing necessary evidence, if any, as per law.

5. In the result, the appeal filed by the assessee-Appellants is allowed by way of remand.

(Dictated & pronounced in the open court)

(V. PADMANABHAN)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

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