CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –II

Service Tax Appeal No.ST/50065-50067/2014-ST [DB]

[Arising out of Order-in-Appeal No.239-241 (OPD)ST/JPR-II/2013 dated 29.08.2013 passed by the Commissioner (Appeals), Customs, Central Excise, Jaipur]

M/s.Wolkem India Ltd. …Appellant

Vs.

C.C.E. – II, Jaipur … Respondent

Present for the Appellant : None
Present for the Respondent: Mr.Ranjan Khanna, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)

Date of Hearing/Decision: 27.02.2017

FINAL ORDER NO. ___52259-52261/2017__

PER: S.K. MOHANTY

Heard both sides and perused the records. Denial of refund claim under Notification No. 41/07 dated 06.10.2007 read with Notification No.17/09 – ST dated 07.07.2009 is the subject matter of present dispute. The authorities below have denied the refund benefit on the service tax paid on the taxable services namely, REPO charges, B/L charges, documentation charges/ Original documentation charges/

inland haulage charges on the ground that the said services fall under the category of business auxiliary services and should not merit consideration for refund, even if, the said services were provided within the port for exportation of goods.

2. We find that the issue involved in this case is no more *res-integra* in view of the decision of Tribunal in the cases of SRF Ltd. vs. CCE, Jaipur reported in 2015 (40) STR 980 (Tri.-Del.), Shivam Exports vs. CCE, Jaipur reported in 2016- TIOL- 376 CESTAT-Del., Suncity Art Exports and Other vs. CCE, Jaipur – II reported in 2014 TIOL -2319 CESTAT-Del. and CCE, Ahmedabad vs. Dishman Pharma & Chemicals Ltd. reported in 2011 (21) S.T.R. 246 (Tri.-Ahmd.), wherein it has been held that irrespective of the classification of the service, if the same were provided within the port, facilitating exportation of goods, the benefit of refund provided under Notification dated 06.10.2007 should be available to the exporter.

3. Therefore, we do not find any merits in the impugned order and after setting aside the same we allow the appeals in favour of the appellants.

[Dictated and pronounced in the open Court)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita