IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. III

<u>DATE OF HEARING/DECISION : 23/02/2017.</u>

Service Tax Appeals No. 770-775 of 2011 (SM)

[Arising out of the Order-in-Appeal No. 22 (CB) ST/JPR-II/2011 dated 28/01/2011, No. 17 (CB) ST/JPR-II/2011 dated 27/01/2011, 27 (CB) ST/JPR-II/2011 dated 31/01/2011, 12 (CB) ST/JPR-II/2011 dated 25/01/2011, 28 (CB) ST/JPR-II/2011 dated 31/01/2011 and 26 (CB) ST/JPR-II/2011 dated 31/01/2011 all passed by The Commissioner, Central Excise Commissionerate, Jaipur.]

M/s Banswara Syntex Ltd. Appellant

Versus

CCE, Jaipur – II Respondent

<u>Appearance</u>

Ms. Rinky Arora, Advocate – for the appellant.

Shri M.R. Sharma, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri B. Ravichandran, Member (Technical)**

Final Order No. 51938-51943/2017 Dated : 23/02/2017

<u>Per. B. Ravichandran :-</u>

These six appeals, by the same appellant, are involving identical issues and, hence, are decided together. The appellants are engaged in the manufacture and export of manmade fabrics/yarn. They have filed claims for refund of service tax paid on various services availed in the course of export of their goods, in terms of Notification 41/2007-ST dated 06/10/2007. The dispute in the present appeals relates to two issues :-

(a) service tax on GTA service utilized for transport of empty containers to the premises of the appellant and

(b) non-production of certain documents in support of service tax paid on GTA service availed for export of goods.

2. The learned Counsel appearing for the appellants submitted that the empty containers were brought to the appellant's premises for stuffing the export cargo and movement of such containers is covered in the overall scope of activities in relation to export of goods. She relied on decided cases by the Tribunal on similar set of facts. Reliance was placed on final order No. 54775/2016 dated 02/11/2016 in appellant's own case as also on **Vippy Industries Ltd. vs. CCE & ST, Indore** reported in **2013 (32) S.T.R. 213 (Tri. – Del.)** and **CCE, C & ST, Visakhapatnam vs. R.A.K. Ceramics India Pvt. Ltd.** reported in **2013 (30) S.T.R. 609 (Tri. – Bang.)**. Regarding supporting documents to claim the refund on GTA service, it is submitted that they have all the required documents with them like export invoice containing details of cargo, container number, details of lorry which transported the said container. They have also documents to support payment of service tax on such GTA service.

3. The learned AR reiterated the findings of the lower Authorities.

4. I have heard both the sides and perused the appeal records. The service tax paid on GTA service for transport of

empty containers in connection with the export of cargo was held to be eligible for refund by the Tribunal in various cases. In **R.A.K. Ceramics India Pvt. Ltd.** (supra) it was held that the expression used in Notification 41/2007-ST "in relation to transport of export goods" is vide enough to cover even of transport of empty containers from the yard to the factory for stuffing the goods. Reliance was placed on the decision of Tribunal in **Commissioner vs. Tata Coffee Ltd. – 2011 (21) S.T.R. 546 (Tri.)**. Accordingly, following the decisions of the Tribunal, I find denial of claim for refund on this ground is not sustainable. On the second issue, a perusal of the invoice submitted by the appellant indicates that the export invoice itself contains various details like nature of cargo, lorry and container details alongwith the date of receipt for transport. The appellants submit that they have connected documents to link up payment of service tax to such transport. Accordingly, I find that on submission of the relevant documents, the entitlements of the appellants for refund are to be settled.

5. In view of the above discussion and findings, I set aside the impugned orders and direct the Original Authority to consider the claims for refunds keeping in view the observations, as above. The appeals are disposed of in above terms.

(Order dictated and pronounced in the open court.)

(B. Ravichandran)
Member (Technical)

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