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

DATE OF HEARING : 01/12/2016.
DATE OF DECISION : 01/12/2016.

Service Tax Appeal No. 999 of 2011

[Arising out of the Order-in-Appeal No. 176 (CB)/ST/JPR-II/2011 dated 08/04/2011 passed by Commissioner, Central Excise (Appeals), Jaipur.]

For Approval and signature :
Hon'ble Shri S.K. Mohanty, Member (Judicial)
Hon'ble Shri V. Padmanabhan, Member (Technical)

1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? :

2. Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? :

3. Whether their Lordships wish to see the fair copy of the order? :

4. Whether order is to be circulated to the Department Authorities? :

M/s Galaxy Exports — Appellant

Versus

CCE, Jaipur – II — Respondent

Appearance

Shri Kumar Vikram, Advocate – for the appellant.

Shri J.P. Singh, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri S.K. Mohanty, Member (Judicial)**
Hon'ble Shri V. Padmanabhan, Member (Technical)

Final Order No. 56452/2016 Dated : 01/12/2016

Per. S.K. Mohanty :-

After hearing both the sides duly represented by Shri Kumar Vikram, learned advocate appearing for the appellant and Shri J.P. Singh, learned AR appearing for the Revenue, we note that the issue relates to refund of Service Tax paid on various input services utilized for export purposes in terms of notification No. 41/2007-ST dated 06/10/2007. The claim is in respect of Terminal handling charges, CHA services and freight charges. The same stand denied by lower authorities by observing that the same are not covered by the port services, which are only specified services in terms of notification in question. A part of the refund claim also stands denied on the ground that proper documents have not been placed before the adjudicating authority.

2. We find that the said issue of refund of service tax paid on various services stands decided by the Tribunal in a number of cases. Reference can be made to the Tribunal's decisions in the following cases :-

1. ***SRF Ltd. vs. CCE, Jaipur I***
   [2015 (40) STR 980 (Tri-Del)];
2. ***M/s. Shivam Exports, M/s. Mecshot Blasting Equipment Pvt. Ltd. vs. CCE, Jaipur***
   [2016-TIOL-376-CESTAT-DEL]
3. ***M/s. Suncity Art Exporters and others***
   [2014-TIOL-2319-CESTAT-DEL)]
4. ***Vippy Industries Ltd. vs. CCE Indore***
   [2013 (30) STR 238 (Tri-Del)]

5. Faizan Shoes Pvt Ltd vs CST, Chennai [2014 (34) STR 205 (Tri-Chennai)]

6. CCE, Surat vs. ABG Shipyard Ltd. [2011 (24) STR 620 (Tri-Ahmd)]

3. As regards the verification of documents, the same can only be done at the level of original Adjudicating Authority. As such, we deem it fit to set aside the impugned order and remand the matter to the Commissioner for fresh consideration of the appellants' refund claim in the light of declaration of law by the Tribunal in the above referred decisions or other precedent decisions, which the appellant may place before him. The Adjudicating Authority would also verify the requisite documents and re-decide the issue accordingly. The appeal is thus allowed by way remand.

(Operative part of the order pronounced in the open court.)

(S.K. Mohanty)
Member (Judicial)

(V. Padmanabhan)
Member (Technical)

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