IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:17.05.2017

Service Tax Appeal No.626/2012-SM

[Arising out of Order-in-Appeal No.IND/CEX/000/APP/33/12 dated 31.01.2012/14.02.2012 passed by the Commissioner of Central Excise (Appeals), Central Excise, Indore]

M/s.Gujrat Ambuja Exports Ltd. Appellants

Vs.

CCE & ST, Indore Respondent

<u>Appearance</u>

Rep. by Shri Manish Saharan, Advocate for the appellant.
Rep. by Shri G.R. Singh, AR for the respondent.

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

Final Order No.53352/2017

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

The appeal is against order dated 31.01.2012 of Commissioner (Appeals), Indore. The appellants are engaged in the manufacture and export of Soya Bean De-oiled cakes, hypo and Soya floor. They have filed claim for refund of service tax paid on services availed during the course of export of these items in terms of notification no.17/2009-ST dated 7.7.2009. The refund claim of Rs.43,040/- was rejected by the lower authorities mainly on the ground that supporting documents were not clear enough to process the claim.

2. Heard both the sides and perused the appeal records.

3. Ld. Counsel for the appellant submitted that there is no prescribed chart to be submitted in support of their claim. However, they have submitted commercial invoice, clearance documents from the factory, shipping bills, transport documents

and evidence in support of payment of service tax on various services availed by them during the course of export of the said goods. I find that no attempt has been made by the lower authorities to examine these documents to find out whether these are sufficient to support the claim of the appellant. Regarding the invoice being in the name of Ahmedabad address, the plea of the appellant is that the invoices are issued by their Head Office. The goods are cleared from Pithampur factory. The clearance documents from the factory can be linked with the shipping documents and the invoice will establish the correctness of the claim.

4. In view of the categorical assertions and submissions of the various documents made by the appellant, I find it fit and proper that the claim of the appellant should be examined afresh for its admissibility in terms of Notification No.17/2009-ST. As such, the impugned order is set aside. The matter is remanded back to the Original Authority for fresh decision. The appellant will be given adequate opportunity to present their side of the case. The appeal is allowed by way of remand.

[Order dictated & pronounced in open court]

(B. Ravichandran)
Member (Technical)

Ckp.