IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-DB

COURT –III

Service Tax Appeal No.ST/50703/2014-ST [DB]
Service Tax Appeal No.ST/50704/2014-ST [DB]

[Arising out of Order-in-Appeal No.300-301 (OPD) ST/JPR-II/2013 dated 24/10/.2013 passed by the Commissioner (Appeals), Central Excise, Jaipur-II]

M/s.R.S.W.M. Ltd. …Appellant

Vs.

C.C.E., Jaipur-II … Respondent

Present for the Appellant : Mr.Narendra Singhvi, Advocate.
Present for the Respondent: Mr.Sanjay Jain, D.R.

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

Date of Hearing/Decision: 06/04/2017

FINAL ORDER NO. __53391-53392/2017_

PER: S.K. MOHANTY

Denial of exemption by way of refund as provided under Notification No. 18/09-ST dated 07.07.2009 is the subject matter of present dispute.

2. The appellant submits that the non-submission of the desired documents both the authorities below had denied exemption of service tax payable on GTA service as well as on overseas commission agent service. In this context, the ld. Advocate has relied on the decision of this Tribunal in the case of the appellant itself wherein vide Final Order No. 51891 / 2017, this Tribunal has remanded the matter to the original

authority for verification of the necessary documents and thereafter directed for *de novo* adjudication of the matter. The relevant paragraph in the said decision is extracted herein below:-

> *"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; (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."*

2. In view of above, we remand the matter to the adjudicating authority for verification of the documents and to decide the issue *de novo*, after affording opportunity of personal hearing to the appellant. The appeals are disposed of accordingly.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita