

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III**

Service Tax Appeal No. ST/1521-1522/2011-[DB]

[Arising out of Order-In-Appeal No. IND/CEX/000/APP/242-245/11 dated
22.06.2011 passed by Commissioner(Appeals) Indore]

For approval and signature:

Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Hon'ble Mr. V. Padmanabhan, Member (Technical)

M/s. Vippy Industries Ltd.

...Appellant

Vs.

C.C.E. Jaipur-I

...Respondent

Appearance:

None appeared for the Appellant

Mr. Sanjay Jain (DR) for the Respondent

CORAM:

Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing/ Decision.24.05.2017

Final Order No. 53577-53578 /2017

Per S. K. Mohanty:

This appeal is directed against the impugned order dated 22.06.2011 passed by the Commissioner of Central Excise (Appeals) Indore. Denial of refund claim filed under Notification No. 41/2007-ST dated 6.10.2007 is the subject matter of present dispute. The authorities below have denied the refund benefit of service tax paid on CHA service and Terminal Handling Charges on the ground that the said services are not confirming to the definition of port service as defined under the Finance Act, 1994.

2. None appeared for the appellant, despite notice. Heard the Ld. DR for Revenue.

3. The fact is not under the dispute that the appellant had paid for the CHA services and Terminal Handling Charges in context with exportation of goods from the port of export. Since the disputed services were utilized within the port, facilitating export of goods, the said services should be eligible for consideration as port service for the purpose of availment of refund benefit contained in Notification dated 06.10.2007. This Tribunal in the case of SRF Ltd. vs Commissioner of Central Excise Jaipur-I 2015 (40) STR 980 (Tri. Del.), Shivam Exports vs CCE Jaipur 2016 -TIOL-376-CESTAT-DELHI and Final Order No. ST-A/54775/2016-CU-DB dated 02.11.2016 passed in the case of Banswara Syntex Ltd. has extended the refund benefit on the disputed service holding that the said services are covered under the Notification dated 06.10.2007.

5. In view of above, we do not find any merits in the impugned order. Accordingly, after setting aside the same, we allow the appeal in favour of the appellant.

(Dictated and pronounced in the open court)

(V. Padmanabhan)
Member(Technical)

(S. K. Mohanty)
Member (Judicial)

Neha