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

Date of Hearing/Decision: 7.6.2017

Appeal No. ST/60377/2013-SM

(Arising out of Order-in-Appeal No. 127(VC)ST/JPR-I/2013 dated 30.8.2013 passed by the Commissioner of Central Excise (Appeals), Jaipur)

Adani Wilmar Ltd. — Appellant

Vs.

CCE, Jaipur — Respondent

Appearance

Shri S.J. Vyas, Advocate - for the appellant

Shri G.R. Singh, D.R. - for the respondent

CORAM: **Hon'ble Mr. Ashok K. Arya, Member (Technical)**

Final Order No. 53741/2017

Per Ashok K. Arya :

The appellant M/s Adani Wilmer Ltd. is in appeal against the Order-in-Appeal No. 147/2013 dated 30.8.2013 whereunder refund of service tax for Terminal Handling Charges (THC) claimed under Notification No. 41/2007-ST dated 6.10.2007 has been rejected.

2. Both sides represented by ld. Counsels, Shri S.J. Vyas for the appellant and Shri G.R. Singh for the Revenue, have been heard.

3. After having carefully considered the facts of the case and submissions of both the sides, it appears that the matter is covered by the Tribunal's decision in appellant's own case of *M/s Adani Wilmar Ltd. Vs. CCE, Jaipur-I* vide Final Order No. 51927-51928/2017 dated 22.2.2017 in the appeals No. ST/499/2011 and 600036/2013-SM, where it has been observed as under:

> "2............The matter is no more res-integra as same set of facts were subject of decision by the Tribunal in various cases. Reference can be made to the decision of the Tribunal in *Shivam Exports Vs. CCE, Jaipur* reported in 2016 (2) TMI 259 – CESTAT-New Delhi. The Tribunal relying on the decision in *Nahar Fibers Vs. CCE, Chandigarh* reported in 2016 (46) STR 542 (Tri.-Del.), held that the appellants are eligible for refund of

service tax paid on terminal handling charges. Following the ratio followed by the Tribunal in various decisions including the one referred to above, I hold that the impugned orders are not sustainable. Accordingly, the same are set aside and the appeals are allowed. The original authority will verify the connected documents for sanction of refunds."

4. Following the ratio of above decision of the Tribunal, the impugned order is set aside; the appeal is allowed, and original authority would be sanctioning the refund after verifying the relevant documents.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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