IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-SM

COURT –III

Service Tax Appeal No.ST/1543/2010 [SM]

[Arising out of Order-in-Appeal No.222/CB/ST/JPR-II/10 dated 12.07.2010 passed by the Commissioner of Customs and Central Excise (Appeals-II), Jaipur]

M/s.Shrinath Gum & Chemicals, …Appellant

Vs.

C.C.E., Jaipur-II … Respondent

Present for the Appellant : Mr.O.P. Agarwal, C.A.
Present for the Respondent: Mr.G.R. Singh, D.R.

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

Date of Hearing/Decision: 12.06.2017

FINAL ORDER NO. _54071/2017_

PER: S.K. MOHANTY

Heard both sides and perused the records. In this case the authorities below have rejected the refund application filed under Notification No.41/2007-ST dated 06.10.2007 in respect of refund of Service Tax paid during the period 01.07.2008 to 30.09.2008.

2. With regard to rejection of refund claim on THC Charges, bills of lading charges, original haulage charges, repo charges, the refund claim was denied on the ground that such services, are not covered under the port service and the service providers have claimed different category of service in the invoices for providing such service to the appellant. Such issue

is no more *res integra* in view of the decision of this Tribunal in the case of Shivam Export and others vs. CCE, Jaipur- Final Order No. ST/A/53916-53918/16 – CU dated 26.11.2015, SRF Ltd. vs. CCE, Jaipur - 2015 – TIOL- 2241- Del.. (CESTAT). The ratio laid down in the said cases are that irrespective of the classification of services, if the same are provided within the port of export, facilitating export of goods, the benefit of refund provided under Notification dated 06.10.2007 should be available to the claimant. Thus, the impugned order to the extent of rejection of refund claim on THC Charges, bills of lading charges, original haulage charges, repo charges are set aside and the appeal is allowed in favour of the appellant.

3. With regard to non-submission of documents, the appellant submits that the requisite documents are presently available with the appellant and the same can be verified by the original authority. The prayer made by the appellant is accepted and accordingly, for verification of the documents, the matter is remanded to the original authority, before whom the appellant shall produce the documents for verification and sanction of refund claim. The appeal is disposed of in above terms.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita