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

Date of Hearing/Decision:26.04.2017

Service Tax Appeal No.152/2011 (DB)

[Arising out of Order-in-Appeal No.422(CB) ST/JPR-II/2010 dated 19.10.2010 passed by the Commissioner, Central Excise Commissionerate, (Jaipur-II), Jaipur].

M/s.Reliance Chemotex Industries Ltd. Appellants

Vs.

CCE, Jaipur-II Respondent

Appearance:

Rep. by Shri Vijayan , C.S. for the appellant.
Rep. by Shri Sanjay Jain, DR for the respondent.

Coram: Hon'ble Shri S.K. Mohanty, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No.54337/2017

Per S.K. Mohanty:

This appeal is directed against impugned order dated 19.10.2010 passed by the Commissioner of Central Excise (Appeals), Jaipur, wherein the appeal of the appellant was dismissed on the ground that the benefit of exemption provided under Notification No.41/2007-ST dated 6.10.2007 is not available to the specified services used for export of the goods on which drawback was availed.

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

3. Condition No.1(e) contained in the notification no.41/2007-ST dated 6.10.2007 provides that refund would not be admissible, if the goods have been exported under the chain of drawback. The said restriction was removed on 07.12.2008 vide notification no. 33/2008-ST dated 7.12.2008.

4. In the present case, since the refund claim pertains to the period from July, 2008 to September, 2008 i.e. prior to removal of restriction, the appellant was not entitled to file the refund claim. In an identified situation, this Tribunal in the case of **Jodhana Art & Crafts – 2017 (47) STR 351 (Tribunal-Delhi)** has held that refund is not admissible, where the drawback benefit has been claimed by the importer.

5. Therefore, we do not find any merit in the appeal filed by the appellant. Accordingly, the same is dismissed.

[Order dictated & pronounced in open court]

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

Ckp.