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

COURT NO. III

DATE OF HEARING : 31/07/2017.
DATE OF DECISION : 31/07/2017.

Service Tax Appeal No. 739 of 2011

[Arising out of the Order-in-Appeal No. IND/35/2011 dated 27/01/2011 passed by The Commissioner (Appeals), Central Excise, Customs & Service Tax, Indore.]

M/s Jhabballal Manilal Appellant

Versus

CCE & ST, Indore Respondent

Appearance

Shri Manish Saharan, Advocate – for the Appellant.

Shri Sanjay Jain, Authorized Representative (DR) – for the Respondent.

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

Final Order No. 55899/2017 Dated : 31/07/2017

Per. S.K. Mohanty :-

In this case, service tax demand of Rs. 1,67,705/- was confirmed alongwith interest and penalties were imposed on the appellant on the ground that the activities undertaken pursuant to the contracts with M/s National Fertilizer Limited (NFL) and Food Corporation of India (FCI) fall under the taxable category of Cargo Handling Service.

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

3. On perusal of one of the agreement entered into between M/s NFL and the appellant, we find that the scope of work mentioned threin relates to transportation of the goods. The relevant paragraph in the said agreement is extracted herein below :-

> "7. For the services rendered and operations undertaken as given in brief above and detailed in the Tender Document. The contractor shall be paid as per schedule at rates given hereunder :

Sl. No.	Distance slab in Kms.	Rates in figures	Rates in Words
1.	0-15 (Local)	28.00 PMT flat	Twenty Eight only
2.	16-25	2.84 PMT/Km	Rs. Two & Paisa eighty four only
3.	26-50	2.79 PMT/Km	Rs. Two & Paisa seventy nine only
4.	51-75	2.43 PMT/Km	Rs. Two & Paisa forty three only
5.	76-100	2.32 PMT/Km	Rs. Two & Paisa thirty two only
6.	101-150	1.90 PMT/Km	Rs. One & Paisa ninety only
7.	151-200	1.50 PMT/Km	Rs. One & Paisa fifty only
8.	201 & above	1.40 PMT/Km	Rs. One & Paisa forty only

4. In view of the fact that the scope of work as per the agreement is only confined to transportation of goods and there is no element of Cargo Handling Service, we are of the considered opinion that the activities undertaken by the appellant will not be covered under the scope and ambit of Cargo Handling Service. Therefore, 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 open court.)

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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