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. 711 of 2011

[Arising out of the Order-in-Appeal No. 33/BPL/2011 dated 10/02/2011 passed by The Commissioner (Appeals), Central Excise, Bhopal.]

CCE, Bhopal — Appellant

Versus

M/s Karanveer Singh & Brothers — Respondent

Appearance

Shri Amresh Jain, Authorized Representative (DR) – for the Appellant.

Shri Manish Gaur, Advocate – for the Respondent.

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

Final Order No. 56260/2017 Dated : 31/07/2017

Per. S.K. Mohanty :-

Revenue is in appeal against the impugned order dated 10/02/2011 passed by Commissioner (Appeals), Customs & Central Excise, Bhopal.

2. Brief facts of the case are that the respondent herein is engaged in the activity of stencilling, packing, cable both end cutting and sealing with cap, wrapping, unloading, fixing of pulling eye etc. at the factory premises of M/s Universal Cables

Ltd., Santa. Department interpreted that the activity undertaken by the respondent falls under the taxable category of Cargo Handling Service. Accordingly, show cause proceedings were initiated against the respondent, seeking confirmation of the service tax demand. Learned Adjudicating Authority vide order dated 15/07/2010 has dropped the show cause proceedings initiated against the respondent. On appeal, the learned Commissioner (Appeals) also upheld the adjudication order. The Revenue contested the impugned order mainly on the ground that the learned Commissioner (Appeals) has mis-interpreted the provisions of Section 2 (f) of the Central Excise Act, 1944 to hold that the manufacturing activity will not be subjected to levy of service tax.

3. Heard both sides and perused the case records.

4. We find that the learned Commissioner (Appeals) has upheld the original order holding that the activity of loading, unloading, packing and unpacking etc. done by the respondent were within the factory premises and since those goods were not meant for loading into any vehicle for outward movement, the same should not fall under the purview of Cargo Handling Service. The relevant paragraph in the impugned order is extracted herein below :-

> "From perusal of the definition it would also been seen that activity viz. unloading, loading, packing and unpacking should be in relation to freight i.e. movement of goods by trucks, trains, ship or aeroplane. In the present

case activity of packing is not related to the transportation of goods but an activity related to manufacturing process so as to bring the goods as cables for marketing. So far as loading of cable drums are concerned the activity of the Respondent is about handing of cable drums up to stock yard only from where these are loaded in the lorries with the help of cranes. I have also gone through the photographs produced by the Respondent which clearly show that actual loading of drums in the lorries are carried out with the help of crane. Thus the activity of packing and handling of cable drum performed by the Respondent cannot said as having related to cargo handling to be performed by them".

5. In view of the fact that the learned Commissioner (Appeals) upon perusal of the relevant records and the actual activity undertaken by the respondent had arrived at the conclusion that the activity does not fall under the purview of Cargo Handling Service, we are of the view that the findings recorded by the Commissioner (Appeals) cannot be interfered with at this juncture. Accordingly, we do not find any infirmity in the impugned order and thus, dismiss the appeal filed by Revenue.

(Dictated and pronounced in open court.)

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

PK