CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi.

Date of hearing/decision: 22.08. 2017

Excise Appeal Nos. 977 - 978 of 2011– SM
(Arising out of order-in-appeal No. 523-524(CB)CE/JPR-II/2010 dated 13.01.2011 passed by the Commissioner (Appeals) Central Excise, Jaipur).

M/s Shree Rajasthan Syntex Limited appellant

Vs.

CCE, Jaipur-II Respondent

Appearance:

Ms. Sukriti Das, Advocate for the appellant
Ms. Kanu Verma Kumar, AR for the respondent

Coram:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

Final Order No. 56290 – 56300/2017

Per: **Ashok Jindal**:

Brief facts of the case are that the appellant is engaged in the business of selling the goods and availing cenvat credit on outward transportation charges. Show cause notices were issued to the appellant to deny cenvat credit on outward transportation charges and adjudication took place. Cenvat credit sought by the appellant was denied consequently impugned order was passed demanded the duty alongwith interest and penalty. Aggrieved from the said order, appellant is before me.

2. Ld. Counsel for the appellant submits that as they are selling the goods on FOR destination basis, therefore, they are entitled for cenvat credit for outward transportation charges. Ld. Counsel for the appellant was asked to

produce the copy of agreement with the buyers. Although, appellant is under an obligation to supply the goods on FOR destination basis but appellant failed to submit those agreements. Further, on perusal of the invoices I find that the transportation charges has shown separately in the invoices and same did not form part of the assessable value of the impugned goods. Ld. Counsel for the appellant relied on the decision of the Hon'ble High Court of A.P. in the case of ***CCE, Hyderabad-III vs. Grey Gold Cements Ltd. – 2014 (34) STR 809 (AP***) to say that they are entitled to outward transportation of final products from the place of removal.

3. Heard the parties considered the submissions.

4. I have gone through the material available on record and the decision of Hon'ble A.P. High Court. In the said decision the High Court allowed outward transportation charges upto the place of removal. The facts of the said case are different from the case in this case, the place of removal is factory gate and the transportation charges are shown separately but the appellant is selling the goods to the customers and availing cenvat credit on outward transportation charges.

5. In these circumstances, I hold that the appellant is not entitled for cenvat credit as outward transportation charges does not form part of assessable value of the goods in question. Accordingly, the appeals deserve no merit, hence, are dismissed.

(Dictated and pronounced in the open Court).

(Ashok Jindal)
Member (Judicial)

Pant