IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –III

Service Tax Appeal No. 3293/2012-CU [DB]

[Arising out of Order-in-Appeal No. APPL/JPR-I/ST/JP/389-390/v/2011/1053 dated 23.07.2012 passed by the Commissioner (Appeals) Central Excise Customs, Jaipur-I]

Choudhary Cotton Ginning & Pressing Factory …Appellant

Vs.

C.C.E., Jaipur-I … Respondent

Present for the Appellant : None
Present for the Respondent: Mr. Amresh Jain, D.R.

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

Date of Hearing / Decision: 30.05.2017

FINAL ORDER NO. __56476/2017__

PER: S.K. MOHANTY

This appeal is directed against the impugned order dated 23.07.2012 passed by the Commissioner, Customs and Central Excise (Appeals-I), Jaipur, wherein exemption claimed by the appellant under Notification No. 4/2007-ST dated 01.02.2007 was denied, holding that the option to avail the exemption cannot be exercised in the middle of the Financial year, where the appellant had already opted for payment of service tax from beginning of the Financial year.

2. None appeared for the appellant, despite notice. Heard the ld. DR for Revenue.

3. In this case the appellant is a small scale service provider and opted for the exemption provided under Notification no. 16/2005-ST dated 01.03.2005 as amended by Notification no. 4/2007-ST dated 01.02.2007. However, the appellant opted to pay the service tax on the taxable service during the period April 2007 to June 2007. However, for the subsequent period in the same financial year i.e. July 2007 to March 2008, it had opted for the benefit of exemption provided under the said notification. The notification dated 01.02.2007 in clear and unambiguous terms provides that the provider of taxable service has the option not to avail the exemption and pay service tax on the taxable services provided by him and such option, once exercised in a financial year, shall not be withdrawn during the remaining part of such financial year. In this case, since the appellant had opted for payment of service tax at the beginning of the Financial year, as per the mandates of the said notification, it cannot change the option during the middle of the financial year, opting for the benefit provided under the said notification.

4. Therefore, I do not find any infirmity in the impugned order. Accordingly, the appeal filed by the appellant is dismissed.

[Operative Portion pronounced in the open court]

(V. PADMANABHAN) **MEMBER (TECHNICAL)**	**(S.K. MOHANTY)** **MEMBER (JUDICIAL)**

Sakshi