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

Date of Hearing/Decision: 31.8.2017

Appeal No. ST/661-662/2011-SM

(Arising out of Order-in-Appeal No. IND/428-429/Appeal/Ind/2010 dated 9.12.2010 passed by the Commissioner (Appeals), Customs & Central Excise, Indore)

Adarsh Global (P) Ltd. Appellant

Vs.

CCE, Indore Respondent

Appearance

Shri S.K. Pahwa, Advocate &
Shri Kuldeep Singh, Advocate - for the appellant

Shri G.R. Singh, A.R. - for the respondent

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

Final Order No. 56763-56764/2017

Per Ashok Jindal :

The appellant is in appeal against the impugned order where the refund claim under Notification No. 41/2007 has been rejected on the following grounds:

(a) Terminal handling charges are not specified service, therefore they are entitled to refund claim thereon.

(b) The appellant has not produced evidence of payment of service tax.

(c) The appellant is failed to correlate the availment of input service towards export of goods.

2. Heard the parties considered the submissions.

3. As it is not disputed that these terminal handling charges has been paid by the appellant for handling their export consignment at port, therefore, same are covered under port service which are specified service in question. Therefore, I hold that the appellant is entitled to refund claim on the services of terminal handling charges.

4. As the appellant has produced all the invoices of service availed by them showing that the service tax has been paid by the appellant. In that circumstances, the appellant is not required to produce the evidence of payment of service tax by the service provider as invoices has been produced by the appellant which shows the component of service tax paid by the appellant. In that circumstances, the appellant has shown the evidence of payment of service tax. Therefore, on this ground, the refund claim cannot be rejected.

5. As per the impugned order, the appellant has not correlated the input service availed towards the export of goods. For that purpose, the matter need verification at the end of adjudicating authority, therefore, for that purpose only, the matter is remanded back to the adjudicating

authority to verify from the records whether the input service availed by the appellant is towards the exports of goods in question or not? After such verification, if admissible, the refund claims shall be sanctioned by the adjudicating authority.

6. With these terms appeals are disposed of by way of remand.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

RM