CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-IV

Date of hearing: 25.08.2017

Appeal No. ST/885/2011-ST[SM]

[Arising out of the Order-in-Appeal No. 93(DKV)ST/JPR-I/2011 dated 11.03.2011, passed by the Commissioner of Central Excise, Jaipur]

M/s. Maruti Impex … Appellant

Vs.

C.C.E. Jaipur-I ... Respondent

Appearance:
Present Shri Kumar Vikram, Advocate for the appellant
Present Shri K. Poddar, DR for the respondent

Coram: Hon'ble Mr. Ashok Jindal, Judicial Member

FINAL ORDER No. 56850 /2017

Per Ashok Jindal:

Refund claim filed by the appellant under notification no. 41/2007 dated 06.10.2007 sought to be denied on the services namely terminal handling charges, CHA, bill of lading charges and transportation of empty container from port area to the factory were denied on the premises that no evidence has been shown that service tax has been paid on the above said services or not.

2. Heard the parties. Perused the records.

3. On perusal of the records, I find that appellant has filed the refund claim along with the invoices against which they have claimed refund. The invoices indicated the amount of service tax. The case of the Revenue is that they have not produced evidence of payment of service tax. It is not the

tenor of the notification that the exporter is required to produce the proof of payment of service tax by the services provider being the appellant a service recipient.

4. In this case refund claim cannot be rejected. Further, same case appeared before the Tribunal in the case of ***Shree Agencies Pvt. Ltd. Vs. CCE Jaipur vide Final Order number ST/A/52714-52716/2016 dated 27.07.2016*** wherein on similar issue the refund claim was allowed.

5. In view of the above discussions, I hold that the appellant is entitled to refund claim. Therefore, the impugned order is set aside and the appeal is allowed with consequential relief.

[Dictated and Pronounced in the open court]

(Ashok Jindal)
Judicial Member

Bhanu