

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

BENCH-SM

COURT -III

Service Tax Appeal No.ST/52702/2016-ST [SM]

[Arising out of Order-in-Appeal No.87/ST/APPEAL-II/MK/GGN/2016 passed by the Commissioner of Service Tax (Appeals-II), Delhi].

M/s. Global Agro Corp.

...Appellant

Vs.

C.C.E. & S.T., Gurgaon-II

... Respondent

Present for the Appellant : Mr.R. Prasad, Advocate

Present for the Respondent: Mr.G.R. Singh, D.R.

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

Date of Hearing/Decision: 12/06/2017

FINAL ORDER NO. 58651/2017

PER: S.K. MOHANTY

Feeling aggrieved with the impugned order dated 22.06.2016 passed by the Commissioner (Appeals), the appellant has filed this appeal before this Tribunal.

2. Heard both sides and perused the records.

3. On perusal of the case records, I find that the Commissioner (Appeals) has rejected the rebate claim filed under Notification No. 41/12-ST dated 29.06.2012. Since the issue relates to rebate claim, in terms of first proviso to

Section 86 of the Finance Act, 1994, this Tribunal has no jurisdiction to decide the appeal against the order passed by the Commissioner (Appeals). Thus, in terms of Section 86 *ibid*, the appeal filed by the appellant is dismissed as not maintainable before the Tribunal. The appellant is at liberty to file the revision application under Section **35 EE of the Central Excise Act, 1944** made applicable to Finance Act, 1994 before the appropriate authority.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita