CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. III

CUSTOM APPEAL No. 54054 OF 2018

(Arising out of Order–in-Original No. CC-A-CUS-D-II-ICD-TKD-2442 dated 17.10.2018 passed by COMMISSIONER OF CENTRAL EXCISE-Delhi)

M/s. R.K. Mittal Handloom Industries **... Appellant**
38, New Pachranga Bazar,
Panipat, Haryana

Versus

Commissioner of Customs, **.... Respondent**
Central Excise, New Delhi
Import Commissionerate,
ICD-Tughlakabad,
New Delhi

APPEARANCE:

Ms. Rinki Arora, Advocate for the Appellant
Mr. P. Gupta, Authorised Representative for the Respondent

CORAM : HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

Date of Hearing/ Decision: **02.08.2019**

FINAL ORDER No.: 51143/2019

ASHOK JINDAL

The appellant is in appeal against the impugned order wherein refund of SAD paid by them at the time of importation of goods has been rejected.

2. The facts of the case are that the appellant filed a refund claim before the adjudicating authority on SAD paid at the time of importation of goods on account of VAT/ CST. As the goods are exempted from payment of CST, the appellant filed refund claim of SAD paid at the time of imports of goods. The said claim was rejected on the ground that as appropriate duty was not paid by the appellant, therefore, they are not entitled to

claim refund on SAD. Therefore, this appeal has been filed by the appellant.

3. The appeal is taken up for final disposal. On hearing the learned AR who supported the impugned order, I find that as no CST / VAT was payable on the said goods, therefore, appellant has discharged their liability of payment of VAT / CST. In that circumstances, appellant is entitled to claim refund of SAD paid at the time of importation of goods is same as on account of VAT / CST.

4. In that circumstances, I do not find any merit in the impugned order. Same is set aside and appeal is allowed with consequential relief.

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Bhanu