CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL REGIONAL BENCH AT HYDERABAD

Single Member Bench

Court – I

Central Excise Appeal No. 30499 of 2019

(Arising out of Order-in-Appeal No.TTD-EXCUS-000-APP-137-18-19 dt.18.02.2019 passed by Commissioner of Central Tax & Customs, Guntur Appeals)

IBC Limited

Opp. Railway Station, Kodur R.S,
Kadappa District, AP – 516 101 **......Appellant**

VERSUS

**Commissioner of Central Tax,
Guntur - GST**

CR Buildings, Kannavarithota,
Guntur, AP – 522 004 **......Respondent**

Appearance

Present for the Appellant: Shri M.N. Bharath, Advocate.
Present for the Respondent: Shri A. Rangadham, Authorized Representative.

Coram:

HON'BLE MR. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER No. A/30074/2022

Date of Hearing: 21.07.2022
Date of Decision: 21.07.2022

[Order per: P.V. SUBBA RAO.]

This Appeal has been filed by M/s IBC Limited[1] assailing Order-in-Appeal dated 18.02.2019 passed by the Commissioner of Central Tax & Customs, Guntur Appeals whereby he upheld the order of the Original Authority dated 19.03.2018 and rejected the Appellant's appeal.

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[1] **Appellant**

2. Learned counsel for the appellant submits that it had filed an application seeking refund which has been rejected by the Original Authority on the ground that proper documents were not submitted. He draws attention of the Bench to the last sentence of the paragraph 10 of the order of the Original Authority which reads as follows:

> *"………….. The reason for rejection is proper documents not submitted; Invoice details in shipping bills do not match with the details contained in commercial invoices."*

3. Learned counsel also draws the attention of the Bench to the paragraph7 of the impugned order which reads as follows:

> *"7. It is observed from the available records, some discrepancies are noticed in the shipping bills and also observed that the assessee has not submitted the BRCs for the total amount which is mentioned in the shipping bills. I find that the assessee failed to correlate the documents with each other to substantiate their claim and not submitted the proper documents. Therefore, I agree with the decision of adjudicating authority with regard to denial of impugned refund claim of Rs.19,82,230/-. In this regard, I rely on the case law in the case of M/s ITC Ltd Vs CCE, Salem [2011 (22) STR 92 (Tri-Chennai)] wherein it was observed that refund rejected on ground of absence of documents to provide proper correlation between exported goods, input services listed in the notification and the matter was remanded for fresh decision to the original authority by giving second chance to the appellant to substantiate their claim by filing adequate documents. I find that, the appellant has not produced any corroborative evidences/ documents before me to examine the issue. Hence, I opine that the appellant is not eligible for impugned refund of Rs.19,82,230/-."*

4. Learned counsel for the appellant prays that since their refunds were rejected only on the ground that proper documents were not submitted and the documents which were submitted could not satisfactorily explain, in the opinion of the Assistant Commissioner, the claim of refunds, the matter may be remanded to the Original Authority so that they can reconcile the papers and explain to the Original Authority their eligibility for the refund.

5. Learned Authorized Representative for the Department supports the impugned order and asserts that if the papers were not satisfactory in the first place, no useful purpose will be served by remanding the matter to examine the same papers again.

6. I have considered the submissions made by both sides and perused the records. I find that it has categorically been recorded by the Original Authority as well as the Commissioner (Appeals) that the only reason for

rejection of refund is that proper documents were not submitted. I, find it proper to remand the matter to the Original Authority to give the Appellant an opportunity to produce all relevant documents and also explain the apparent mismatches in the invoice details, etc.

7. The appeal is allowed by way of remand to the Original Authority without passing any remarks on the merits of the case. He should decide the matter after giving the appellant a reasonable opportunity of being heard.

(Dictated and pronounced in the open court)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

Veda