**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA**

REGIONAL BENCH – COURT NO.2

**Service Tax Appeal No. 75127 of 2016**

(Arising out of Order-in-Appeal No.18/ST-II/KOL/2015 dated 19.10.2015 passed by Commissioner of Central Excise (Appeals-II), Kolkata)

**M/s. Singhania & Sons Private Ltd.**
(3D, Duckback House, 41, Shakespeare Sarani, Kolkata-17)

**Appellant**

*VERSUS*

**Commr. of Service Tax, Kolkata**
(180, Santipally, Rajdanga Main Road, Kolkata-700107)

**Respondent**

**APPEARANCE :**
Mr. Sanjay Bhaumik, Advocate for the Appellant
Mr. P. K. Ghosh, Authorized Representative for the Respondent

**CORAM:**
**HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)**
**HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)**

**FINAL ORDER NO.75861/2025**

Date of Hearing : 4TH April 2025
Date of Decision : 4th April 2025

**PER R. MURALIDHAR**

The appellant was exporting iron ore fines. In respect of GTA services availed for such exports, the appellant was claiming benefit of Notification No. 18/2009-ST dated 7th July 2009. Accordingly, they were not paying the Service Tax. Show Cause Notice was issued on 30/11/2011 demanding Service Tax on GTA services for the period April 2010 to September 2010. After due process, the Adjudicating Authority dropped the demand of Rs. 12,16,082/- and confirmed the demand of Rs. 3,16,918/-. On appeal, the commissioner (Appeals) has dismissed the same. Being aggrieved, the appellant is before the Tribunal.

2. The Learned Counsel appearing on behalf of the appellant submits that admittedly the EXP-2 and EXP-1 Returns were filed belatedly but the fact that the goods were exported is not disputed by the Revenue. He submits that though they have provided all the

documentary evidence towards the export of 45 consignments, in respect of the nine consignments, the lower authorities have held that the appellant has not brought out any proper evidence towards export of consignments. He submits that in all these cases, the shipping bills are clearly raised along with invoices and the goods have reached for further shipment to the overseas importer. He prays that the appeal may be allowed.

3. The Learned AR reiterates the findings of the lower authorities and submits that where the appellant was in position to provide proper documentary evidence, the demand has been dropped to the extent of Rs. 12,16,082/-. After finding that the appellant could not provide the proper documentary evidence, the balance demand of Rs.3,16,918/- has been confirmed. Therefore, he justifies the confirmed demand.

4. Heard both sides and perused the appeal papers.

5. We find that even in respect of the nine consignments, the appellant has provided the details of shipping bills. We do not find anything to suggest that the Department has undertaken any exercise to find out whether the goods under these Shipping Bills were exported or not. But as of now, the actual fact of exports is not being disputed by the Revenue. The details of these nine consignments are given as under:-

| SI No. | Name of the Transporter | Inv. No. & date | Qty (MT) | Freight (Rs.) | Shipping Bill No. |
|---|---|---|---|---|---|
| 1 | Ma Transport Co. | MA/S & S/09/10-11 dated 24.04.2010 | 840.680 | 12,96,809/- | 5615790 |
| 2 | Do | 12 dated 09.7.10 | 95.310 | 1,24,856/- | 5636016 |
| 3 | Do | 14 dated 10.9.10 | 704.230 | 10,49,303/- | 5650211 |
| 4 | Reliance Transport | RTC/2010-11/001 dated 19.4.10 | 157.780 | 2,38,708/- | 5615790 |

| | | | | | |
|---|---|---|---|---|---|
| | Co. | | | | |
| 5 | Do | 061 dt. 02.9.10 | 807.280 | 18,56,744/- | 5650212 |
| 6 | Do | 063 dt. 06.9.10 | 1659.770 | 38,17,471/- | 5650212 |
| 7 | Do | 066 dt. 14.9.10 | 233.170 | 3,47,423/- | 5650212 |
| 8 | Do | 068 dt. 18.9.10 | 62.560 | 1,43,888/- | 5650212 |
| 9 | ATC Logistics Co. | ATL/SSPL/002/10-11 dt. 15.6.10 | 1370.170 | 34,32,276/- | 8803131 |

6. Non-filing or delayed filing of EXP-2 and EXP-1 can be taken as a procedural lapse and the same cannot be used for denying the benefit given under notification No. 18/2009-ST dated 7th July 2009. Accordingly, we set aside the impugned order and allow the appeal filed by the appellant.

7. The appellant would be eligible for consequential relief, if any, as per law.

(Dictated and pronounced in the open court.)

Sd/-
**(R. Muralidhar)**
**Member (Judicial)**

**Sd/-**
**(Rajeev Tandon)**
**Member (Technical)**

Pooja