CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH, MUMBAI

REGIONAL BENCH – COURT NO. 02

Service Tax Appeal No. 85189 of 2019

(Arising out of Order-in-Appeal No. MKK/235/RGD APP/2017 dated 19-09-2018 passed by the Commissioner of Central Tax & Service Tax (Appeals) Raigad.)

........Appellant

Commissioner of C.G.ST.- BELAPUR
null CGO Complex, 10, CBD Belapur
Navi Mumbai – 400 614

VERSUS

Flemingo Airport Retail P Ltd ....Respondent
D-73/1 TTC Industrial Area
MIDC Turbhe
Navi Mumbai – 400 705

APPERANCE:

Shri Dharmendra Singh, Authorised Representative for the Appellant
Shri Sameer K Sonawane, Advocate for the Respondent

CORAM:

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

FINAL ORDER NO. A/87520/2019

Date of Hearing: 30-10-2019
Date of Decision: 30-10-2019

Per: S.K. Mohanty

Heard both the sides and perused the case records.

2. Revenue has assailed the impugned order dated 19-9-2018 passed by Commissioner (Appeals), Central Excise & Service Tax, Mumbai on the ground that sales effected by the respondent from CTN Shops situated at departure terminal of Airport should not be

considered as export of goods and as such, benefit of rebate scheme provided under Notification No. 41/2012 shall not be available to the respondent. On perusal of the case records, I find that on identical situation for the earlier period, the order dated 27-4-18 passed by Learned Commissioner (Appeals) was appealed against before the Tribunal, which was disposed of vide Final Order No. A/86904, 907/ 2019 dated 24-10-2019 in rejecting the appeals filed by Revenue. In support of rejection of appeals filed by Revenue, the Tribunal has specifically recorded that the goods sold by respondent/ assessee in its outlet situated at Security Hold Area at the departure terminal in Mumbai International Airport has to be considered as export and thus, the benefit of refund provided under Notification No. 41/2012 should be available to the respondent.

3. In view of the fact that the issue arising out of the present dispute is no more *res integra*, in terms of decision dated 24-10-2019 of the Tribunal, I cannot take a contrary stand to decide the present appeal differently in favour of Revenue.

4. Therefore, I do not find any merits in the appeal filed by Revenue and accordingly, same is dismissed.

(Dictated & pronounced in open Court)

(S.K. Mohanty)
Member (Judicial)

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