

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**CHANDIGARH**

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REGIONAL BENCH – COURT NO. 1

**Excise Appeal No.3669 Of 2012**

[Arising out of OIO No.57-61/SA/CCE/2012 dated 24.08.2012 passed by the Commissioner of Central Excise, Delhi-III, Gurgaon]

**M/s Sarita Handa Exports Pvt. Ltd.** : **Appellant (s)**  
Plot No.29, Sector-4, IMT Manesar,  
Gurgaon, Haryana

Vs

**The Commissioner of Central Excise,**  
**Delhi-III** : **Respondent (s)**  
Plot No.36-37, Sector-32, Gurgaon,  
Haryana-122021

With

**2. Excise Appeal No.3670 of 2012 [M/s Sarita Handa Exports Pvt. Ltd.]**

**3. Excise Appeal No.3671 of 2012 [M/s Sarita Handa Exports Pvt. Ltd.]**

**4. Excise Appeal No.3672 of 2012 [M/s Sarita Handa Exports Pvt. Ltd.]**

**5. Excise Appeal No.3673 of 2012 [M/s Sarita Handa Exports Pvt. Ltd.]**

[All Arising out of OIO No.57-61/SA/CCE/2012 dated 24.08.2012 passed by the Commissioner of Central Excise, Delhi-III, Gurgaon]

APPEARANCE:

Shri R.C. Chaudhary, Advocate for the Appellant  
Shri Aneesh Dewan, Authorised Representative for the Respondent

**CORAM :**

**HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)**  
**HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER Nos.60378-60382/2023**

Date of Hearing: 11.09.2023

Date of Decision:14.09.2023

***Per:P. ANJANI KUMAR***

The appellants, M/s Sarita Handa Exports Private Limited, are engaged in the manufacture and export of Quilted Bed Spread, Pillow Sham, Duvet Cover etc. They have availed credit of various input services like Customs House Agent Service, Goods Transport Agency Services, Banking Services, Commercial & Industrial Construction Services etc. It was felt by the Department that these services have no nexus with the manufacturing activity and therefore, credit of the same is not admissible. Show-cause notices, denying the credit along with interest and imposition of penalty, were issued and the same were adjudicated vide Order dated 24.08.2022 wherein the Commissioner dropped the demand amounting to Rs.1,32,29,442/- and confirmed demand CENVAT credit of Rs.65,48,343/- Hence, the present appeals.

2. Shri R.C. Choudhary, learned Counsel for the appellants, submits that the learned Commissioner has denied the credit on Construction Services, Customs Clearance Services, Renting of Property Services, Installation Services; out of which the appellants do not dispute the inadmissibility of the credit availed on renting of property; they have, accordingly, reversed the credit of Rs.3,70,800/-. He submits that regarding Construction Service, the issue since stands settled in their favour by various judgments of the Tribunal. He further submits that in their own case, this Bench vide Order 2016 (44) STR

654 held that Customs Clearance Service, Construction Service, Photocopy Service are admissible.

3. Shri Aneesh Dewan, learned Authorized Representative for the Department submits that for the services under Customs Clearance Services and Tour & Travels Service, the appellants could not produce any documentary evidence to show that the services were availed in the course of manufacture of final products or in pursuit of their business; sample invoices produced by the appellants to the learned Commissioner did not indicate the services availed and in some cases, the indication was vague and therefore, nexus between the input service and the products manufactured and exported was not clearly established; though, the service of CHA were utilized, the invoices mentioned that the said service was for liasioning with DGFT Authorities for obtaining DEPB Licenses.

4. At this stage, learned Counsel for the appellants fairly submits that the show-cause notice was issued pursuant to an audit objection wherein the audit party has examined all the documents; if required, they are in a position to show the same to the Adjudicating Authority and the case may be remanded back to the learned Commissioner for this limited purpose.

5. Heard both sides and perused the records of the case. On going through the rival submissions and records of the case and the case laws in this regard, we find that the appellants are eligible for availing

credit on Commercial & Industrial Construction Service for the period prior to 01.04.2011. We find that on this count, credit of Rs. 207/- is not admissible to the appellants. Rest of the credit is, however, admissible. Regarding Photocopy Service, we find that credit of Rs.32,795/- is admissible; similarly, CENVAT credit of Rs.3,658/- on Repair Services is also admissible. The appellants have not disputed the denial of credit of Rs.3,70,800/- on Renting of Property Service and have reversed the same. Thus, a total of Rs.3,71,007/- is not admissible.

6. Regarding Customs Clearance Services and Tour & Travels Services, we find that the impugned order records that the appellants have not produced invoices etc. to prove that the credit is correctly availed by them. While holding in principle that credit on these two services is admissible to the appellants, we are of the considered opinion that the issue requires to go back to the Adjudicating Authority to calculate the admissible credit on the basis of the evidence that may be produced by the appellants.

7. As the issue pertains to interpretation wherein most of the issues were settled by the decisions of this Tribunal at a later date, the appellants cannot be held to have any intention to evade payment of duty. Therefore, no penalties are imposable.

8. Thus, all the appeals are allowed by way of remand as per the discussion in Paras 5 and 6 above. The Adjudicating Authority shall

calculate the credit admissible on the two disputed services i.e. Customs Clearance Services and Tour & Travels Services. The appellants shall submit all the documents they would like to rely upon to the Adjudicating Authority within four weeks of the receipt of this order. The Adjudicating Authority shall decide the issue within twelve weeks of the receipt of this order.

*(Pronounced on 14/09/2023)*

**(S. S. GARG)**  
MEMBER (JUDICIAL)

**(P. ANJANI KUMAR)**  
MEMBER (TECHNICAL)

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