

ORDER IN APPEAL:

M/s. Omega Industries, Opp. Rajman Weigh Bridge, Halkot Road, Gandhinagar, Junagadh-372033 (hereinafter referred to as the appellant) has filed the present appeal, against Order-in-Original No.R/31/2016 dated 08.02.2017 (hereinafter referred to as the impugned order) passed by the Assistant Commissioner, Service Tax Division, Bhavnagar (hereinafter referred to as the adjudicating authority) in their own name.

2. Briefly stated the facts of the case are that the appellant filed an application for refund of Service Tax amounting to Rs.2,79,038/- before the Adjudicating authority, for the period June 2016 to September, 2016 under the provision of Notification No. 4/2012-ST dated 29.06.2012, for the service tax paid for export on their final product i.e. Indian Washed Extraction Meal. The adjudicating authority vide the impugned order sanctioned the refund claim of Rs.2,14,146/- and rejecting the (a) an amount of Rs.61,687/- of refund claim of CHA charges and (b) an amount of Rs. 2,912/- due to non-submission of Bank Realization Certificate in respect of shipping bill no. 111215. The adjudicating authority imposed a penalty of Rs. 17,087/- on the ground that the all the customs documentation work had been done by M/s. Siva Ocean Shipping Services(P) Ltd., whereas CHA's consent has been secured on invoices issued by M/s. Surya Shipping Service on which basis refund has been claimed by the appellant.

3. Being aggrieved to the rejection of refund claim for Rs.61,687/- on CHA service of the impugned order the appellant preferred the present appeal.

4. Personal hearing of the matter was held on 04.07.2018. Shri Keshu Patel, Assistant Manager Exports appeared for personal hearing on behalf of the appellant. He reiterated the grounds of appeal.

5. I have carefully gone through the facts of the case, the impugned order, appeal memorandum and the submissions made by the appellant in written and during the personal hearing. The limited issue to be decided in the present appeal is whether, the impugned order confirming the rejection of refund claim of Rs. 61,687/- on CHA service is proper or otherwise.



6. I observe that, the appellant has contended that the adjudicating authority has passed the impugned Order-in-Aid in the light of rejecting the refund claim for H.S. 9874 on CMA services without appreciating facts and circumstances of the case. Appellant has contended that the adjudicating authority had erred in observing that the authorized CMA as mentioned in all the shipping bills is M/s Sea Queen Shipping Services (P) Ltd. while the invoices issued by M/s Surya Shipping and further erred in rejecting the claim through the impugned order for H.S. 9874 on CMA services. Appellant also submit that they submit a certificate dated 19.12.2018 issued by M/s Surya Shipping Services, despite the admitted fact the adjudicating authority found the said certificate of the appellant to be unsustainable for the reason that one of the customs documentation work has been done by M/s Sea Queen Shipping Services (P) Ltd. whereas invoices issued by M/s Surya Shipping Service. The appellant also submit that ground for denial raised by the adjudicating authority is not sustainable in fact, law and they are eligible to be filled for substantive benefit of interest of service tax paid on taxable services used for export of goods under Nch. No. 4/2017-2018.

7. The only ground of appellant to contest in this forum is based on the certificate dated 19.12.2018 issued by M/s Surya Shipping Services. I have gone through the copy of certificate dated 19.12.2018 issued by M/s Surya Shipping Services (attached as Annexure B of Appeal), wherein it is certified by them that they are appointed by appellant as their exclusive service provider for rendering various taxable services. Further M/s Surya Shipping Services also certified that Customs documentation is being done by integrated infrastructure services of M/s Sea Queen Shipping Services (P) Ltd. No any other documentary evidence placed by the appellant in their reference. I find that said certificate does not speak that M/s Surya Shipping Services authorized to M/s Sea Queen Shipping Services (P) Ltd for CMA work. It also does not speak whether Service Tax on CMA Service has been paid by M/s Sea Queen Shipping Services (P) Ltd. It is a fact that only authorized CMA can handle the customs related work. Therefore, the adjudicating authority after verification of export documents has rightly held that customs documentation work had been done by M/s Sea Queen Shipping Services (P) Ltd but tax invoices were issued by M/s Surya Shipping services in respect of CMA services which is not justified.

8. In view of foregoing discussions and findings, I restore Order in Original passed by the adjudicating authority for rejecting the refund claim in respect of CMA services and dismiss the appeal filed by the appellant.

9. The appeal filed by the appellant stands disposed of in above terms.



(P. A. Vasawa)
Commissioner (Appeals)
Commissioner
CGST & Central Excise,
Kulsh (Gowdiharu)

F No. U-2/79/3017/2017

Date: 13.04.2018

By Regd. Post A.D. / Speed Post

To,
M&C Inter Industries,
Opp-Rajaji and Weigh Bridge,
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1. The Chief Commissioner, CGST, Ahmedabad Zone, Ahmedabad
 2. The Commissioner, CGST, Bikaner (His Attention:- RFA Bikaner).
 3. The Additional Commissioner, CGST & C.Ex (Systems), Bikaner
 4. The Assistant Commissioner (Kafund/Trch), CGST Bikaner
5. Guard File.