

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO. II**

Service Tax Appeal No. 50649 of 2021

(Arising out of Order-in-Appeal No. 365/CRM/ST/JDR/2020 dated 22.12.2020 passed by the Commissioner (Appeals) CGST, Jodhpur.)

M/s Agarwal Polysacks Ltd (Unit-I)

, Plot No. E-649, MIA Basni Phase-II
Jodhpur, Rajasthan-342005

Appellant

Vs.

Commissioner, CGST- Jodhpur

G-105, New Industrial Area,
Opp. Diesel Shed, Basni
Jodhpur, Rajasthan- 302003

Respondent

APPEARANCE:

Shri Om. Prakash Agarwal, Chartered Accountant for the Appellant
Ms. Tamanna Alam, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO. 50245 / 2022

Date of Hearing: 11.02.2022

Date of Decision: 11.02.2022

ANIL CHOUDHARY:

Heard the parties.

2. The issue involved in this Appeal is whether the demand raised is sustainable in view of revenue neutrality, as well as time barred.

3. So far, the demand of Rs. 78,240+7,776, totaling Rs. 86,016/-, the same have been raised in respect of GTA service received by the Appellant under reverse charge mechanism. The learned Counsel points out that they are manufacturer of polysacks etc., which are dutiable and they have removed their finished products on payment of duty both by way of Cenvat credit and account current. It is further urged that the

demand is also barred by limitation, as the show cause notice was issued on 17/10/2019 relating to the payment for the period up to June, 2017. Further, the transaction was recorded in the books of account maintained in regular course.

4. Further urges, the ruling in the case of **Texyard International vs. CCE Trichi 2015(40) S.T.R. 322 (Tri.-Chennai)** wherein, under similar circumstances of Revenue neutrality, it was held that extended period of limitation is not available. Accordingly, this ground is allowed and the demand under the GTA is set aside.

5. So far the demand of Rs. 5,550/- under Reverse Charge Mechanism on legal consultancy services is concerned, the same is also set aside in view of my finding in the paragraph hereinabove on the ground of revenue neutrality.

6. So far the amount of interest Rs. 339/-, being short paid interest on delayed depositing of service tax, the same is confirmed as not contested.

7. As regards the late fee for filing of ST-3 Returns in time, the same is reduced from Rs. 20,000/- to Rs. 2000/- under Section 77 1A. Similarly, penalty imposed for non filing of service tax return under Section 70(I) is also reduced from Rs. 10,000/- to Rs. 4,000/-.

8. Accordingly, the Appeal is allowed and the impugned order is modified in the aforementioned terms. All penalties imposed are set aside, the Appellant is entitled for consequential benefits.

(Order dictated in the open court)

(ANIL CHOUDHARY)
Member (Judicial)