

**2012 (25) S.T.R. 480 (Tri. - Chennai)**

IN THE CESTAT, SOUTH ZONAL BENCH, CHENNAI  
**Dr. Chittaranjan Satapathy, Member (T)**

**INTERNATIONAL AGRICULTURAL PROCESSING (P) LTD.**

*Versus*

**COMMR. OF C. EX. (S.T.), MADURAI**

*Final Order No. 1169/2011, dated 27-10-2011 in Appeal No. ST/488/2011*

REPRESENTED BY : Shri Joseph Prabhakar, Advocate, for the Appellant.

Shri T.H. Rao, SDR, for the Respondent.

**[Order].** - Heard both sides. Ld. Advocate Shri Joseph Prabhakar states that the claim for refund of Service tax paid was rejected by the original authority on four counts and the lower appellate authority has allowed the refund on two counts. He further states that claim for the third amount of Rs. 4,472/- denied by the lower appellate authority on the ground of limitation is not being pressed by the appellants. As such, what remains to be decided is the refund of Rs. 1,80,204/- denied to the appellants on the fourth count.

**2.** Heard both sides in respect of the denial of refund of Rs. 1,80,204/-. I find that this relates to exports made during the period 14-5-2009 to 31-3-2010. Hence, in respect of exports made from 14-5-2009 till 6-7-2009, the grant of the refund would be governed by the conditions under the previous Notification No. 41/2007, dated 6-10-2007. For the remaining period, refund would be governed by the new Notification No. 17/2009, dated 7-7-2009. I also find that the conditions prescribed in the two notifications are somewhat different. The precedent notification in force till 6-7-2009 had a condition that the storage and warehouse is exclusively used for the purpose of storage or warehouse of the export goods. However, there is no such condition in the successor notification applicable from 7-7-2009. It is not in dispute that the appellants have stored some inputs in addition to export goods in the impugned warehouse and, going by the condition of the previous notification read strictly as has been done by the authorities below, the appellants are not eligible for refund on exports made upto 6-7-2009 in this regard. However, I find no reason to deny them refund for the period from 7-7-2009 onwards as the relevant notification does not prescribe any condition that the storage and warehouse should be exclusively used only for the purpose of export goods. Perhaps, relaxation has been made for the subsequent period keeping in view the fact that warehouses are used for storage of some inputs and packing materials for the purpose of production of export goods. Accordingly, as far as the appeal relating to the amount of Rs. 1,80,204/- is concerned, same is partly allowed by allowing the refund for the period w.e.f. 7-7-2009 onwards. For the limited purpose of re-calculating the amount and granting the refund, the matter is remitted to the original authority with the above direction.

**3.** As regards the amount of Rs. 4,472/-, the appeal is dismissed as not pressed.

(Dictated and pronounced in open court)

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