CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 377 of 2011

[Arising out of Order-in-Revision No.09/Commr./ PKL/ REV/ 2010 dated 30.11.2010 passed by the Commissioner of Central Excise, Panchkula]

M/s Bharat Industrial Enterprises Ltd. **......Appellant**
Taraori, Karnal, Haryana-132116

VERSUS

Commissioner of Central Excise and Service Tax, Panchkula **......Respondent**
SCO – 407-408, Sector-8,
Panchkula, Haryana-134119

APPEARANCE:

Ms. Vrinda Bagaria, Advocate for the Appellant

Shri Kanish Saini, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 61030/2025

DATE OF HEARING: 05.08.2025
DATE OF DECISION: 01.09.2025

P. ANJANI KUMAR:

Heard both sides and perused the records of the case.

2. Brief facts of the case are that the appellants are engaged in cultivation of paddy and sale/ export of rice (obtained by de-husking the paddy); the appellants have engaged/ availed the service of commission agents for export/ domestic sale. During the year 2007-

08, the appellants have paid service tax and filed the refund claim for Rs.13,63,497/- on the grounds that they have paid the service tax under Reverse Charge Mechanism due to a mistaken understanding; such commission is exempt from payment of service tax in terms of Notification No.13/2003 dated 20.06.2003. The Original Authority vide Order dated 05.03.2009 granted refund; on an appeal filed by the Revenue, Commissioner vide Order-in-Revision dated 30.11.2010 disallowed the refund claim and ordered that the appellants deposit the refund granted along with interest @ 13% per annum. Hence, this appeal.

2. Learned Counsel for the appellants submits that the impugned order is completely erroneous and has been passed on an arbitrary understanding of the definition of "Agricultural Produce"; the definition of "Agricultural produce" has three parts; "rice" is included in the second part of the definition in view of the inclusive clause. She submits that CBIC vide Circular No.143/12/2011-ST dated May 26, 2011 has clarified that "rice" is an agricultural produce. She further relies on the following cases:

- Kohinoor Foods Ltd Vs. Commissioner of Central Excise & ST., New Delhi reported in 2017 (52) STR 26 (Tri - Del.)
- Bola Raghavendra Kamath & Sons Vs. CCE & ST, Mangalore reported in 2019 (28) GSTL 143 (Tri-Bang)
- MNC Corporation Vs. Commissioner of Central Excise & Service Tax, Mangalore reported in 2018 (2) TMI 1819-CESTAT Bangalore

3. Learned Authorized Representative for the Revenue reiterates the findings of the impugned order and takes us through the provisions of the Notification.

4. We find that the definition of "Agricultural Produce" has given under Notification No.13/2003 is as follows:

> In the said Notification
> (i) --------
> (ii) --------
>
> Explanation – for the purpose of this Notification
> (i) -------
> (ii) "agricultural produce" means any produce resulting from cultivation or plantation, on which either no further processing is done or such processing is done by the cultivator like tending, pruning, cutting, harvesting, drying which does not alter its essential characteristics but makes it only marketable and includes all cereals, pulses, fruits, nuts and vegetables, spices, copra, sugar cane, jaggery, raw vegetable fibres such as cotton, flax, jute, indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea but does not include manufactured products such as sugar, edible oils, processed food and processed tobacco.

5. It can be seen that the inclusive clause of the definition covers cereals and there should not be any doubt as to the fact that rice is a cereal. We find that CBIC vide Circular dated May 26, 2011 clarified as under:

> "3. Also where the commission agents stationed abroad provide business auxiliary service to promote the export of rice, said business auxiliary service is covered by notification 13/2003-ST (as amended) because, the word 'rice' is mentioned under the explanation to the term 'agricultural produce', in the inclusive portion along with other items like cereals, pulses, etc."

6. In view of the above, we find that the exemption is applicable, to the services of commission agent (Business Auxiliary Service), availed by the appellants, in terms of the above Notification. In view of the same, we find that there is substantial force in the arguments of the learned Counsel for the appellants. Accordingly, we allow the appeal with consequential relief, if any, as per law.

(Order pronounced in the open court on 01/09/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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