CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH - COURT NO. 3

Excise Appeal No. 1321 of 2011

[Arising out of Order-in-Original/Appeal No - SA/102/VAPI/2011 dated – 11/08/2011 passed by Commissioner of Central Excise, Customs and Service Tax-VAPI]

Savita Oil Technologies Ltd
10/2, 10/1/1, Kharadpada, Po-naroli,
SILVASSA
DADRA & NAGAR HAVELI .... **Appellant**

VERSUS

C.C.E. & S.T.-Vapi
4TH FLOOR...ADHARSH DHAM BUILDING,
OPP. TOWN POLICE STATION, VAPI-DAMAN ROAD, VAPI
VAPI
GUJARAT
396191 .... **Respondent**

<u>APPEARANCE</u> :

Shri Jagdish Surti, Advocate for the Appellant
Shri Rakesh Bhashkar, Authorised Representative for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)

FINAL ORDER NO. A/12459/2019

DATE OF HEARING/ DECISION : 17.12.2019

<u>RAMESH NAIR</u>

The issue involved is that whether the appellant is entitled for the quantity discount to arrive at the assessable value in respect of goods sold through their depot.

2. Shri Jagdish Surti, learned counsel appearing on behalf of the appellant submits that they have passed on the discount in respect of goods from the depot subsequent to the sale of goods. He submits that the Adjudicating Authority and Learned Commissioner (Appeals) denied the discount on the ground that only to some of the customers, the discount was passed on and not to all. It was also found by the lower authorities that the appellants have not submitted certain documents. As per the learned Counsel, they have submitted all the documents before the refund sanctioning authority. However the same was not considered. He further submitted that one of the grounds for denial of the refund on discount is that the appellant have not adopted the provisional assessment procedure.

3. Shri Rakesh Bhashkar, Learned Superintendent (Authorised Representative) appearing on behalf of the Revenue reiterated the findings of the impugned order.

4. We have heard both sides and perused the records. We find that since the issue is whether the discount was passed on to all the customers or not, this can be ascertained by verification of various sales documents, ledger, books of accounts, etc. Since the lower authorities have not verified all these documents, in our considerate view, the matter needs to be remanded to the Adjudicating Authority for passing fresh order. We make it clear that only because the provisional assessment procedure was not followed, refund cannot be rejected on this ground. Hence, we set aside the impugned order and allow the appeal by way of remand to the Adjudicating Authority.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

Diksha