Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH-COURT NO. 3

Excise Appeal No. 12048 of 2014 - DB

(Arising out of OIA-AHM-EXCUS-002-APP-312-313-13-14 dated 04/03/2014 passed by Commissioner of Central Excise-AHMEDABAD-II)

Transformers & Rectifiers India Ltd **........Appellant**
No. 344-350, Opp. Pwd Stores, Sarkhej Bavla Road,
Village : Changodar, Taluka : Sanand,
Ahmedabad, Gujarat

VERSUS

C.C.E.-Ahmedabad-ii **......Respondent**
Custom House... First Floor,
Old High Court Road, Navrangpura,
Ahmedabad, Gujarat- 380009

WITH

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APPEARANCE:
Shri M G Yagnik, Advocate for the Appellant-Assessee
Shri Ajay Kumar Sa (AR) for the Respondent- Revenue

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

Final Order No. 12364-12365/2023

DATE OF HEARING: 17.10.2023
DATE OF DECISION: 17.10.2023

RAMESH NAIR

The issue involved in the present case is that whether the third party inspection charges on behalf of the customer borne by the appellant and collected as reimbursement thereof is includable in the assessable value of Excisable goods manufactured and cleared by the appellant.

2. Shri M G Yagnik Learned Counsel appearing on behalf of the appellant at the outset submits that in the identical issue in the appellant's own case, the appeals were remanded by this Tribunal vide Final order No. A/100668/2019 dated 08/04/2019 in the case of Transformers & Rectifiers (India) Ltd Vs. CCE- Ahmedabad passed by CESTAT Ahmedabad, and final order No. A/10286-10288/2019 dated 05.02.2019 in the case of Transformers & Rectifiers (India) Ltd Vs. CCE- Ahmedabad passed by CESTAT Ahmedabad therefore, he seeks remand in the present matter also.

3. Shri Ajay Kumar Samota, Learned Superintendent AR appearing on behalf of the revenue reiterates the finding of the impugned order. He has no objection in remand the matter to the Adjudicating Authority.

4. On careful consideration of the submission made by both the sides and perusal of record, we find that the issue of inclusion of the third party inspection charges is based on the factual matrix on the terms and conditions of the contract and whether the same is collected uniformly from all the customers or from some specific customers on their request. Therefore, in the appeals for the early period this Tribunal vide cited orders of the Tribunal remanded the matter to the Adjudicating Authority. Therefore in the present case also the adjudicating authority has to examining the factual matrix on the claim of the appellant that the inspection is by third party on the behest of the customer which in normal course is not carried out by the appellant in respect of all the manufactured goods. There are other aspects also as enumerated in the remand orders.

5. Accordingly, we set aside the impugned order and remand the matter to the Adjudicating Authority for passing a fresh order by taking

observation from the order dated 08.04.2019 & 05.02.2019 of this Tribunal in the appellant's own case. Appeals are allowed by way of remand to the Adjudicating Authority.

(Operative portion dictated in open court)

RAMESH NAIR
MEMBER (JUDICIAL)

RAJU
MEMBER (TECHNICAL)

Raksha