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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.288 of 2012

(Arising out of OIA-10/2012-AHD-II-CE/MM/COMMR-A-/AHD dated 18/01/2012 passed by Commissioner of Central Excise-AHMEDABAD-II)

Transformers & Rectifiers (india) Ltd ....Appellant
Survey No. 344-350, Opp. Pwd Stores, Sarkhej-Bavla Highway, 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

APPEARANCE:
None appeared for the Appellant
Shri Rajesh Agarwal, Superintendent (AR) for the Respondent

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

Final Order No. A/ 10233 /2023

DATE OF HEARING: 16.01.2023
DATE OF DECISION: 07.02.2023

RAMESH NAIR

The issue involved in the present case is that whether testing and inspection charges in some of the clearances collected by the appellant from their buyer of the goods and the said testing and inspection was done for and on behalf of the buyer whether such amount involved is includible in the assessable value of the excisable goods sold by the appellant.

02. When the matter was called out, none appeared on behalf of the appellant despite several notices therefore, the appeal is taken up for disposal.

03. Shri Rajesh Agarwal, learned Superintendent (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

04. On careful consideration of submission made by learned AR and on perusal of records, we find that as per the facts of the case from the records in some of the clearances buyer has asked the appellant to get the testing

and inspection done and such testing and inspection was done in addition to normal testing and inspection of the goods which is carried out in general by the appellant. The testing and inspection charge was collected by the appellant from the buyer. It is a settled law that in addition to a general testing and inspection of a product if some third party testing and inspection is carried out on a specific demand of a buyer, the same cannot be included in the assessable value. The issue is covered by many judgments relied upon by the appellant in the grounds of appeal which are cited below:

- BHASKAR ISPAT PVT LTD- 2004 (167) ELT 189 (Tri.-LB)
- A. INFRASTRUCTURE LTD.- 2003 (160) ELT 549 (Tri.-Del.)
- PAXMA AXLE & SPRINGS (P) LTD.- 2000 (125) ELT 836 (Tribunal)
- BHASKAR INDUSTRIAL DEVELOPMENT LTD.- 2003 (161) ELT 822 (Tri.-Kolkata)
- RAGHAVENDRA PRE-STRESS PRODUCTS (P) LTD.- 2006 (205) ELT 743 (Tri.-Bang.)
- SIDDHARTH TUBES LTD.- 2006 (194) ELT 144 (M.P.)
- J.J. CONFECTIONARY PVT. LTD.- 2007 (210) ELT 196 (Tri.-Bang.)
- IDCOL KALINGA IRON WORKS LTD.- 2007 (214) ELT 511 (Tri.-Kolkata)

05. In view of the above settled position of law, the third party testing and inspection charges is not includible in the assessable value of the excisable goods accordingly, the issue is no longer res-integra hence, the impugned order is set aside. Appeal is allowed.

(Pronounced in the open court on 07.02.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Mehul