IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
<u>REGIONAL BENCH : ALLAHABAD</u>

E/1564/2008EX[DB]

(Arising out of Order-in-Appeal No.94-CE/GZB/2008 dated 25.04.2008 passed by Commissioner(Appeals), Customs, Central Excise & Service Tax, Meerut-I.)

M/s. Ast Pipes Pvt.Ltd.

…APPELLANT(S)

VERSUS

Commissioner of Central Excise & Service Tax, Ghaziabad

RESPONDENT (S)

<u>APPEARANCE</u>
Written Submissions for the Appellant (s)
Shri Rajeev Ranjan (Addl.Commr.) (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

<u>DATE OF HEARING/DATE OF DECISION :</u> 09.08.2018

<u>FINAL ORDER NO.71911/2018</u>

Per Mrs.Archana Wadhwa :

The appellants have made a request to decide the matter on the basis of written submissions, which we have gone through. After hearing the ld.AR and after going through the impugned order, we have seen that the sole issue required to be decided in the present appeal is as to whether third party inspection charges done under the instructions of the customers are includible in the assessable value or not. The appellants have contended that they have in-house inspection facilities for which no separate charges are being recovered by them. However, in some cases their customers insist on extra inspection, which are re-imbursed to them and the said practice is being followed by them since 1987. The Tribunal in the case of Classic Polytube Pvt.Ltd. reported in 2016 (336) ELT 180 (Tri.-All.) has held that when the inspection is not mandatory and is done at the option of the buyers, inspection charges are not includible in the assessable value. The demand, which stands raised for the period 01.04.2002 to 31.10.2006 by way of show cause notice dated 10.01.2007 is also assailed on the point of limitation.

2. We find that the issue is no more *res integra*. The extra inspection is being done by the assessee under the direction of their customers and as such is optional in nature. Regular inspection is being done by the appellant in their in-house facilities which is not the subject matter of the present appeal. As such we find that the confirmation of demand of duty against the appellant is not sustainable.

3. Apart from merits, we also find force in the appellant's contention that the demand is barred by limitation inasmuch as no justifiable reasons for invoking the longer period stand given by the Revenue.

4. In view of the above we set aside the impugned order and allow the appeal with consequential relief to the appellants.

(Dictated and pronounced in the open Court.)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

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