IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/55108/2014-EX[DB]

(Arising out of Order-in-Appeal No.21-CE/MRT-I/2014 dated 12/03/2014 passed by Commissioner (Appeals), Customs & Central Excise, Meerut-I)

M/s Jai Construction Equipment Co. **Appellant**

Vs.

Commissioner of Central Excise, Meerut **Respondent**

Appearance:

Absent on Call for Appellant
Shri Pawan Kumar Singh (Supdt.) AR for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing	:	30/11/2018
Date of Decision	:	30/11/2018

FINAL ORDER NO. - **72775/2018**

Per: Archana Wadhwa

Nobody appeared for the appellant. Accordingly, we have heard learned A.R. for the Revenue and have gone through the impugned order.

2. As per facts on record the appellant is engaged in the manufacture of Bridge Bearings which are being supplied by them to various private contractors, who have contract with the Railways for construction and

repair of Bridges of the Indian Railways. As per the contract between Railways and private contractors, materials used by the contractors are required to be inspected and certified by DGSD. The private contractors ask the appellant to get materials inspected in their premises prior to dispatch for which the inspection charges are to be borne by the private contractor as they are under contractual obligations to gets the goods inspected by DGSD. In above terms, the appellant get the bearing inspected from the DGSD on behalf of and at the instance of the private contractor. The amount paid to the appellant is further paid to DGSD.

3. Revenue by entertaining a view that the said inspection charges as collected by the appellant are liable to be included in the assessable value of the goods initiated proceedings against them resulting in passing of the present impugned order and confirming the duty of Rs.99,086/-.

4. The appellant's contention is that such charges are recovered from the private contractor are not towards the value of bearings and are not being retained by them. The same are being paid to DGSD towards inspection of

the goods. They also produced the certificate issued by DGSD to that effect.

5. We find that the issue is no more *res integra.* The inspection of the goods is being done at the instance of the private contractors, who are under an obligation to get the same tested from DGSD in terms of their agreement with the Railways. As such by no stretch imagination such charges can be held to be towards the value of the appellant’s final product. The issue also stands decided by various precedent decisions and one such reference can be made to Tribunal decision in the case of Diamond Cements Ltd. vs. CCE 2012 (283) E.L.T. 291 (Tri.). In view of the above, we set aside the impugned order and allow the appeal with consequential relief to the appellant.

(Dictated & Pronounced in Court)

Sd/-	**Sd/-**
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

Lks