CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Excise Appeal Nos.70960-70964 of 2018–EX[DB]

[In Excise Appeal No. 70960 of 2018]

(Arising out of Order-in-Appeal No. GZB/EXCUS/000/APPL-MRT/05/2018-19 dated 19/04/2018 passed by Commissioner of CGST (Appeals), Meerut)

Commissioner of Central Excise & Service Tax, Appellant

(Ghaziabad)

VERSUS

M/s Tycon Cables India Pvt. Ltd., ...Respondent

(A-2/23 & 24, Sector-17, Kavi Nagar Industrial Area, Ghaziabad)

WITH

(i) Excise Appeal No.70961 of 2018 (Commissioner of CGST, Ghaziabad Vs Naresh Kumar Singhal, Director)

(ii) Excise Appeal No.70962 of 2018 (Commissioner of CGST, Ghaziabad Vs Singhal Cable Industries)

(iii) Excise Appeal No.70963 of 2018 (Commissioner of CGST, Ghaziabad Vs Shri Rakesh Singhal, Authorized Signatory)

(iv) Excise Appeal No.70964 of 2018 (Commissioner of CGST, Ghaziabad Vs Shri Vivek Kumar Singhal Partner)

(Arising out of Order-in-Appeal No. GZB/EXCUS/000/APPL-MRT/05/2018-19 dated 19/04/2018 passed by Commissioner of CGST (Appeals), Meerut)

APPEARANCE:

Shri Gyanendra Kumar Tripathi, Deputy Commissioner, Authorised Representative for the Appellant
Shri Dushyant Kumar, Consultant for the Respondents

CORAM: **HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)**
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NOS -71337-71341 / 2019

DATE OF HEARING : 10 July, 2019
DATE OF DECISION : 10 July, 2019

PER: ARCHANA WADHWA

All the appeals filed by revenue are being disposed of by a common order as they are arising out of same impugned orders passed by Commissioner (Appeals).

2. After hearing both the sides duly represented by Shri Gyanendra Kumar Tripathi learned Deputy Commissioner Authorised Representative appearing for Revenue and Shri Dushyant Kumar learned Consultant appearing for respondents, we find that M/s Tycon Cables India Pvt. Ltd. and M/s Singhal Cable Industries were engaged in the manufacture of PVC cables and wires. There factory was visited by the Central Excise officers on 25.01.2012, who conducted various checks and verifications. Certain excesses were found, which were seized and subsequently a separate case was made in respect of the same, which is not the subject matter of the present appeal.

3. During the course of search operation, the revenue also recovered certain loose slips and note pads and by entertaining a view that the entries made therein represent the clandestine activities of the appellant, initiated proceedings against them which culminated into impugned order passed by Original Adjudicating Authority. The Original Adjudicating Authority confirmed the demand to the extent of Rs.4.87 lakhs against M/s Tycon Cable India Pvt. Ltd. and of Rs.39 lakhs approximately against M/s Singhal Cable Industries. In addition, penalties were imposed upon the respondents.

4. On appeal against the said order, Commissioner (Appeals) set aside the same by observing that the findings of clandestine

activities cannot be upheld on the basis of the sough entries striplings made in the note book or loose slips without any further investigations made by revenue. Aggrieved by the said order revenue has filed the present appeals.

4. We find that the entire case of the revenue is based on the entries made in the said loose papers and note pads which do not stand further investigated by the revenue. It is well settled law that allegations of clandestine removal cannot be upheld on the said basis, unless there is corroborative evidence on record. The revenue has not even been able to find out any such evidence. As such, we find no infirmity in the impugned order of Commissioner (Appeals).

5. Accordingly, all the appeals filed by revenue are rejected.

(Dictated and pronounced in open court)

(Archana Wadhwa)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

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