CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

CENTRAL EXCISE APPEAL NO. 3475 OF 2012

[Arising out of Order-in-Appeal No. 259/2012-CE dated 12.09.2012 passed by the Commissioner of Central Excise (Appeals-I) Bangalore]

M/s. Arjun Strips and Pipes Private Limited **Appellant(s)**
No. 8A & 8B, Industrial Area
Hoskote, Bangalore

VERSUS

Commissioner of Central Excise Bangalore - I **Respondent(s)**
Post Box No. 5400, C.R Buildings
Queens Road
Bangalore - 560 001

APPEARANCE:
Present for the Appellant: Mr. Rohan Karia, Advocate
Present for the Respondent: Mr. Sanjay Venkat, Superintendent (AR)

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 20292 /2025

DATE OF HEARING: 19.02.2025
DATE OF DECISION: 19.02.2025

PER : D.M. MISRA

This is an appeal filed against the Order-in-Appeal No. 259/2012-CE dated 12.09.2012 passed by the Commissioner of Central Excise (Appeals), Bangalore.

2. Briefly stated the facts of the case are that the appellants are engaged in the manufacture of steel tubes and CR coil sheets falling under Chapters 72 & 73 of CETA, 1985. During the relevant period, November 2005 to 31.10.2008, the appellant had cleared their goods to one M/s. Rajdhani Steel Tubes by discharging duty on the

transaction value in accordance with Section 4 of the Central Excise Act, 1944. A show-cause notice was issued to the appellant on 07.12.2009 alleging that since the transaction between the appellant and M/s. Rajdhani Steel Tubes are not at arm's length, therefore the price adopted for clearance of the goods from the factory was not the true transaction value and it is proposed to redetermine the assessable value in accordance with Rule 4 & 6 of Central Excise Valuation Rules, 2000 for the said period and a differential duty of Rs. 4,90,956/- was proposed to be recovered along with interest and penalty. On adjudication, demand was confirmed with interest and penalty. Aggrieved by the said order, appellant filed an appeal before the Commissioner (Appeals), who in turn rejected their appeal. Hence, the present appeal.

3. At the outset learned counsel for the appellant submits that for the previous period i.e. from 2000 to 2005, a show-cause notice was issued on the same ground for rejection of the transaction value which has reached before this Tribunal and this Tribunal remanded the matter to the adjudicating authority to decide the issue afresh in the light of observation made in the said order. It is his contention that in the earlier show-cause notices all the facts have been declared to the Department, therefore invoking extended period of limitation in the present show-cause notice is untenable in law.

4. Learned AR for the Revenue submits that this Tribunal while addressing the issues raised on the valuation as well as on limitation in the earlier appeals filed by the same appellant remanded the matter to the adjudicating authority for consideration of both the issues. He submits that therefore the matter may be remanded to the adjudicating authority on the same line.

5. Heard both sides and perused the records. The short issue involved for determination in the present appeal is whether the value declared by the appellant is in accordance with law and the demand notice issued is barred by limitation or otherwise. We find that for the earlier period on similar issues raised by the appellant before this

Tribunal, the matters were remanded for De novo consideration on all issues raised including the issue of limitation, wherein it is observed as under:

> *"3.2. The appellants have also assailed the demand relatable to valuation, on the point of time bar. We find that Commissioner (A) has only observed that since there was suppression, the extended period is invocable. However, there is no reference to any positive act on the part of the assessee so as to suppress or misstate the value with an intention to evade payment of duty. As per the learned advocate, they were filing all the requisite statutory returns wherein the entire facts were being disclosed by them. If that be so, then the extended period would not be available to the Revenue. However, the said contention of the learned advocate requires verification. Inasmuch as the matter stands remanded, he would examine the fact of limitation afresh after going through the appellant's submission and the various documents, etc. said to have been filed by them with the Revenue."*

6. Following the aforesaid precedent, the present appeal is also remanded to the adjudicating authority to decide the issue on merit as well as on limitation. All issues are kept open. Needless to say a reasonable opportunity of hearing may be allowed to the appellant. Appeal is allowed by way of remand to the adjudicating authority.

(Order dictated and pronounced in Open Court)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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