CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 2

Excise Appeal No. 3306 of 2012

(Arising out of Order-in-Appeal No. 443/2012 dated 07.09.2012 passed by Commissioner of Central Excise (Appeals), Mangalore).

M/s. Campco Chocolate Factory
Kemminje,
Puttur - 574202

.... Appellant

VERSUS

Commissioner of Central Excise, Mangalore
7th Floor, Trade centre,
Bunts Hostel Rd. Mangalore,
Karnataka - 575003.

.... Respondent

WITH

i. **Excise Appeal No. 3307 of 2012**

(Arising out of Order-in-Appeal No. 443/2012 dated 07.09.2012 passed by Commissioner of Central Excise (Appeals), Mangalore).

ii. **Excise Appeal No. 25031 of 2013**

(Arising out of Order-in-Appeal No. 533/2012 dated 11.10.2012 passed by Commissioner of Central Excise (Appeals), Mangalore).

AND

iii. **Excise Appeal No. 25526 of 2013**

(Central Arecanut and Cocoa Marketing and Processing Co-operative Ltd.)

(Arising out of Order-in-Appeal No. 649/2012 dated 22.11.2012 passed by Commissioner of Central Excise (Appeals), Mangalore).

Appearance:

Ms. Nivedita Mehta, Advocate for the Appellant

Shri Rajesh Shastry, Authorised Representative for the Respondent

Coram:

Hon'ble Mr. P.A. Augustian, Member (Judicial)

Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order Nos. 20341-20344 /2025

Date of Hearing: 05.09.2024
Date of Decision: 04.03.2025

Per: Pullela Nageswara Rao

The issue in the present appeals is whether the appellant can be considered as job worker and whether the method of valuation to be adopted will be under Rule 8 or under Rule 10A of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.

2. M/s. Campco Chocolate Factory, the Appellant is engaged in manufacture of chocolates under the brand name of CAMPCO and also does job work for M/s. Nestle India Ltd., and M/s. Cadbury India Ltd. Apart from this, appellant is also manufacturing bulk chocolate and cleared to M/s. Nestle India Ltd. The bulk chocolate is used as raw material by M/s. Nestle India Ltd., for the manufacture of their final product. Alleging that the valuation method adopted for the bulk chocolate manufactured by the appellant should have been as per Rule 10A of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, proceedings were initiated and Adjudication Authority as per the impugned orders confirmed the demand along with interest and imposed penalties. Further, Appeals filed before the Commissioner (Appeals) were also rejected. Aggrieved by said orders, present appeals were filed before the Tribunal.

3. When the appeals came up for hearing, learned counsel for the appellant submits that M/s. Nestle India Ltd., require bulk chocolate manufactured by the appellant and to match their quality and specification, M/s. Nestle India Ltd., have supplied all the raw materials

except Cocoa paste, which is the product manufactured by the appellant. The appellant has been valuing the bulk chocolate manufactured by them on the basis of raw material cost + conversion charges inclusive of their profit as per the formula prescribed by the Hon'ble Apex Court in the matter of **Ujjar Prints Vs. Union of India reported in 1989 (39) ELT 493 (SC)**.

4. Learned Counsel further submits that the issue is squarely covered by the judgment of this Tribunal in appellant's own case for the subsequent period vide Final Order No. 21670/2015 dated 21.07.2015 wherein it is held that;

> *"7. We have applied our mind to the legal issue in the present appeal. Though the appellants are only contesting the supplies made to M/s. Nestle and are paying duty on the higher assessable value in respect of supplies made to M/s. Cadbury, the said fact itself will not act as an estoppel to apply the correct law so as to arrive at the correct assessable value. Tribunal in the case of Advance Surfactants India Ltd.: 2011 (274) E.L.T. 261 (Tri.-Bang.) has considered an identical position and has held that in the case of manufacture of goods on job work basis neither Rule 10A(iii) nor Rule 8 of the Central Excise Valuation Rules, 2000 would have any applicability and the goods have to be assessed to duty in terms of Ujagar Prints formula. To the same effect is another decision of the Tribunal in the case of Glamour Tin Industries Pvt. Ltd. vs. CCE, Thane: 2014-TIOL-1612-CESTAT-MUM. Tribunal's decisions in the case of Indian Extrusions vs. CCE, Mumbai: 2012 (283) E.L.T.209 (Tri.-Mum.) can also be referred to. The said decision of the Tribunal in the case of Advance Surfactants India Pvt. Ltd. (supra) stands confirmed by the Hon'ble Supreme Court, when the appeal filed by the Revenue was rejected as reported in 2013-TIOL-07-SC-CX.*
>
> *7.1 Inasmuch as the issue is decided, we find no favour with the Revenue's stand of adopting Rule 8. Accordingly, the impugned*

order is set aside and the appeal is allowed with consequential relief."

5. Learned Authorised Representative (AR) reiterated the findings in the impugned order.

6. Heard both sides and perused the records.

7. It is an admitted fact that appellant has manufactured the goods and carried out transaction with M/s. Nestle India Ltd., on principal to principal basis and the appellant were following the method of valuation as per the judgment of the Hon'ble Supreme Court in the matter of **Ujjar Prints (Supra**). Since the issue is squarely covered by the decision of this Tribunal in appellant's own case for the subsequent period, appropriate duty having paid by them, the question of demanding differential duty as per the impugned order is unsustainable and is set aside.

8. Accordingly, the appeals are allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 04.03.2025)

(P.A. Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

sasidhar