CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE

Appeal(s) Involved:

E/194/2009-DB, E/195/2009-DB, E/196/2009-DB, E/197/2009-DB, E/198/2009-DB, E/199/2009-DB, E/200/2009-DB, E/201/2009-DB, E/202/2009-DB

[Arising out of Order-in-Appeal Nos. 386 to 394/2008-CE dated 28/11/2008 passed by the Commissioner of Central Excise, Bangalore-I]

Oxford Rubber Company Pvt. Ltd. Plot No. C-62, Bommasandra Industrial Area, Hosur Road, Anekal Taluk, Bangalore	**Appellant(s)**
Oxford Rubber Company Pvt. Ltd. Plot No. C-62, Bommasandra Industrial Area, Hosur Road, Anekal Taluk, Bangalore	**Appellant(s)**
Oxford Rubber Company Pvt. Ltd. Plot No. C-62, Bommasandra Industrial Area, Hosur Road, Anekal Taluk, Bangalore	**Appellant(s)**
Sri Satyajeet Singh M/s. Oxford Rubber Pvt. Ltd. Plot No. C-62, Bommasandra Industrial Area, Hosur Road, Anekal Taluk, Bangalore	**Appellant(s)**
Sri Satyajeet Sigh M/s. Oxford Rubber Pvt. Ltd. Plot No. C-62, Bommasandra Industrial Area, Hosur Road, Anekal Taluk, Bangalore	**Appellant(s)**
Sri Satyajeet Singh M/s. Oxford Rubber Pvt. Ltd. Plot No. C-62, Bommasandra Industrial Area, Hosur Road, Bangalore	**Appellant(s)**
Prabjoth Singh M/s. Max Rubber Pvt. Co. Plot No. C-62, Bommasandra Industrial Area, Hosur Road, Bangalore	**Appellant(s)**

Sri Prabjoth Singh
M/s. Max Rubbber Co.
Plot No. C-62, Bommasandra
Industrial Area, Hosur Road,
Bangalore

Appellant(s)

Versus

Commissioner of Central Excise,
Customs and Service Tax
Bangalore-I
Post Box No. 5400, C.R Buildings,
Bangalore – 560 001
Karnataka

Respondent(s)

Appearance:

Mr. N. Anand, Advocate
152, Race Course Road,
Bangalore – 560 001
Karnataka

For the Appellant

Mr. Pakshirajan, Assistant
Commissioner (AR)

For the Respondent

Date of Hearing: 26/07/2018
Date of Decision: 26/07/2018

CORAM:
HON'BLE MR. S.S GARG, JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order Nos. 21015 - 21023 / 2018

Per: S.S GARG

These nine appeals have been filed by the appellant against the common impugned order dated 28.11.2008 passed by the Commissioner whereby the Commissioner (Appeals) has rejected the appeals of the appellant. Since the issue involved in all the nine appeals is identical and there is one impugned order, therefore all the appeals are being disposed of by this common order.

2. Briefly the facts of the present case are that the appellant is engaged in manufacture of conveyor/transmission belts and rubber sheets. DGCEI officers searched the factory of the appellant and its Director and also the premises of another concern M/s. Max Rubber on 28.06.2002. On the basis of the evidence gathered during the investigation and the statements recorded from various persons, Additional Director General, DGCEI issued show-cause notice alleging that the concern called Max Rubber Company was created in the same premises as that of the appellant with an intention to clear the goods manufactured at the appellant's factory clandestinely and with an intention to misuse the benefit of Notification applicable to SSI units. The said show-cause notice was adjudicated by the Commissioner of Central Excise, Bangalore vide Order-in-Original No. 8/2006 dated 05.05.2006 clubbing the clearances made by M/s. Max Rubber Company with that of the appellant i.e. M/s. Oxford Rubber Pvt. Ltd. Thereafter the Department issued periodical show-cause notices for the subsequent period and confirmed the demand and other proposals in the show-cause notice vide Order-in-Original No. 34/2007, 35/2007 and 33/2007.

3. Heard both the parties and perused the records.

4. Learned counsel for the appellant submitted that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts and the law on the point. He further submitted that the impugned order has not been passed on merits rather it only relied upon the earlier order passed by the Commissioner vide Order-in-Original No.

8/2006 dated 05.05.2006. He further submitted that the earlier Order-in-Original No. 8/2006 dated 05.05.2006 was appealed against by the appellant before the Tribunal and the Tribunal vide its Final Order Nos. 561 - 563/2010 dated 03.02.2010 set aside the said order and remanded the case back to the adjudicating authority to reconsider the issue afresh after following the principles of natural justice. The learned counsel further submitted that after the remand, the issue was decided by the adjudicating authority and the same was challenged before the Tribunal in the second round of litigation and this Tribunal vide its Final Order Nos. 24110 - 25112/2013 dated 20.02.2013 again remanded the matter to the adjudicating authority for a de novo adjudication for the second time after making relevant observations and directed the Commissioner to undertake de novo adjudication after considering the observation of the Bench.

5. On the other hand the learned AR reiterated the findings of the impugned order.

6. On our careful consideration of the submissions made by both the parties and perusal of the material on record, we find that in the present case the Commissioner (Appeals) has not given any findings on merit rather the Commissioner has relied upon the earlier Order-in-Original No. 8/2006 dated 05.05.2006 whereby the Commissioner confirmed the demand by holding that M/s. Max Rubber Company has no independent existence. Further we find that the said Order-in-Original No. 8/2006 dated 05.05.2006 on the basis of which the present cases were decided has already been set

aside by the Tribunal vide its Final Order Nos. 561 – 563/2010 dated 03.02.2010 and remanded the matter back to the adjudicating authority. Further we find that in the second round of litigation before the Tribunal, again the Tribunal remanded the matter back to the adjudicating authority after making certain observations for the guidance of the Commissioner. Since in these appeals, no finding on merit is returned by the Commissioner (Appeals), therefore we are of the considered view that the impugned order is liable to be set aside and we do so and remand the matter back to the Commissioner (Appeals) for de novo adjudication after following the principles of natural justice. Consequently, all the appeals are allowed by way of remand.

(Operative portion of the Order was pronounced
in Open Court on **26/07/2018**)

(P. ANJANI KUMAR)
TECHNICAL MEMBER

(S.S GARG)
JUDICIAL MEMBER

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