CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No. 666 of 2009

[Arising out of Order-in-Appeal No. 54/2009-Central Excise dated 14/05/2009 passed by the Commissioner of Central Excise (Appeals-I), Bangalore.]

M/s. FORBES AQUATECH LTD.
SY.NO.36/4, ANNEXE BUILDING,
4TH CROSS, NEAR HENNUR RING ROAD,
RAGHAVENDRA NAGAR, HRBR LAYOUT,
BANGALORE.

Appellant(s)

VERSUS

Commissioner of Central Excise
Bangalore-II Commissionerate
PB 5400 CR BUIDING, QUEENS ROAD,
BANGALORE - 560001
KARNATAKA

Respondent(s)

WITH

Central Excise Appeal No. 667 of 2009 (M/s. FORBES AQUATECH LTD vs. CCE, Bangalore.)

[Arising out of Order-in-Appeal No. 47/2009-Central Excise dated 30/03/2009 passed by the Commissioner of Central Excise (Appeals-I), Bangalore.]

AND

Central Excise Appeal No. 25070 of 2013 (M/s. FORBES AQUATECH LTD vs. CCE, Bangalore.)

[Arising out of Order-in-Appeal No. 306/2012-Central Excise dated 11/10/2012 passed by the Commissioner of Central Excise (Appeals-I), Bangalore.]

Appearance:

Mr. Cherian Punnoose, Advocate
A.K.B. ASSOCIATES
#311-312,'Commerce House'9/1,
Cunningham Road,
BANGALORE – 560 052.

For the Appellant

Mrs. C. V. Savitha
Superintendent, Authorised Representative

For the Respondent

CORAM:

HON'BLE SHRI RAJU, HON'BLE TECHNICAL MEMBER
HON'BLE SHRI P. DINESHA, HON'BLE JUDICIAL MEMBER

Date of Hearing : 20/09/2021
Date of Decision: 23/09/2021

Final Order No. 20758 -20760 /2021

Per: P. DINESHA

Assessee has filed the above appeals against the Order-in-Appeal No. 54/2009-Central Excise dated 14/05/2009, Order-in-Appeal No. 47/2009-Central Excise dated 30/03/2009 and Order-in-Appeal No. 306/2012-Central Excise dated 11/10/2012 and since common issue is involved, all the appeals are considered for common disposal, for convenience.

2. Appellant is a manufacturer of excisable goods and in particular, water purifiers of various types, it appeared to the Revenue that for the period March 2007 to June 2007, the appellant had manufactured and cleared seven water purifier models without payment of Central Excise duty, by claiming benefit of exemption under Notification No.6/2007 dated 1.3.2007. Thus, the Revenue entertaining a doubt that *"….The water filters in question manufactured and cleared by the assessee do not function when the water does not flow from the tap with pressure i.e., the water filters would function only when they are connected to tap from which the water flows with pressure……."*, issued show cause notices proposing to demand Central Excise duty along with interest and applicable penalties. The appellant filed detailed reply, also relied on Analytical Report given by a Technical Expert viz., Institute for Analysis of Dairy, Food and Culture (IADFAC Laboratories Pvt. Ltd.) and contended

that the water purifiers in question do not require any kind of pressure as alleged by the Revenue, rather it was sufficient for flow of water in the normal mode. The adjudicating authority, however, was not satisfied with the contentions of the appellant, and vide Order-in-Originals confirmed the demand along with interest under Section 11AB and penalty under Section 11AC as proposed. The appellant preferred appeal before the first appellate authority vide respective orders, wherein it has been held that out of seven products, demand in respect of two products have been confirmed i.e., Aquasure on Tap Water Purifier and Aquasure Storage Water Purifier-US Tech, against which the present appeals have been filed before this forum.

3. Heard Shri Cherian Punnoose, learned advocate for the appellant and Smt. C. V. Savitha, learned Authorised Representative for the Revenue. We have considered the rival contentions and have gone through documents placed on record.

4. The Revenue's doubt vide its show-cause notices have been effectively rebutted by the Analytical Report issued by a neutral party wherein it has been categorically clarified that the water purifiers in question do not use any kind of external pressure. It has also been clarified that the water purifiers in question work on gravity flow and do not require electricity, pump or pressurised vessel for purifying water to produce portable water. Further, it was also brought to our notice that for the periods April 2008 to October 2008 and November 2008 to August 2009, the first appellate authority has allowed assessee's appeal after considering the Analytical Reports of the expert in the field, vide Order-in-Appeal dated 29.3.2011. Moreover, the Notification in question only mandates that the water filters should function without electricity and pressurised tap water. We have gone through the user manual in respect

of both the models which are placed on record, from which we do not see either of the models requiring any electricity or pressurised tap water for functioning. Other than mere suspecting, even the Revenue has not adduced any sought of evidence to dislodge the mode of functioning explained in the user manual.

5. In view of the above, we are satisfied that the water purifiers in question function without electricity and pressurised tap water, they satisfy the conditions of the Notification in question and, consequently they are entitled for the benefit of Notification in question. Accordingly, we set aside the impugned orders and allow the appeals with consequential relief, if any, as per law.

(Order was pronounced in Open Court on **23/09/2021.)**

(RAJU)
TECHNICAL MEMBER

(P DINESHA)
JUDICIAL MEMBER

RV....