CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 61140 of 2018

[Arising out of Order-in-Appeal No. JNK-EXCUS-APP-463-17-18 dated 22.03.2018 passed by the Commissioner (Appeals), Central Excise, Jammu]

M/s First Flexipack Corporation **......Appellant**
Plot No.103, Phase-III, Industrial Area,
Gangyal, Jammu & Kashmir-180010

VERSUS

Commissioner of Central Excise and Service Tax, Jammu & Kashmir **......Respondent**
OB-32, Rail Head Complex,
Jammu & Kashmir-180012

APPEARANCE:

Shri Arvind Arora, Advocate for the Appellant

Shri S.K. Meena, Authorized Representative for the Respondent

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

FINAL ORDER NO.61589/2025

DATE OF HEARING/ DECISION: 13.10.2025

P. ANJANI KUMAR:

The appellants, M/s First Flexipack Corporation, are engaged in the manufacture of plastic laminates and are availing the exemption in terms of Notification No.56/2002-CE dated 14.11.2002; the appellants are giving discounts on the goods cleared by them to their customers. Revenue was of the opinion that the appellants have not factored the discounts in the valuation of the excisable goods, deliberately to avail excess rebate on the inflated value; a show cause noticed dated 21.09.2011 was issued covering the period 2007-08 to 2010-11, on the refund of Rs.2,35,205/- alleged to have been availed in excess along with interest and penalties. The proposals were confirmed vide OIO dated 10.08.2016 which was upheld by the impugned order dated 22.03.2018 passed by the Commissioner (Appeals). Hence, this appeal.

2. Learned Counsel for the appellants submits that the issue is no longer res integra having been decided by this Bench in their own case – 2018 (362) ELT 166 (Tri. Chd.).

3. Learned Authorized Representative reiterates the findings of the impugned order.

4. Heard both sides and perused the records of the case. We find that this Bench vide order cited above held as follows:

> **3.** We have heard both sides and perused the material available on record. The impugned order proceeded more on inference and presumptions rather than on verification of documents and facts. In fact, in para 6 of the impugned order the Commissioner (Appeals) has recorded the probability of possible inflated value of the goods cleared by the assessee-appellants. In the same para, he records that the discounts were, admittedly, not shown in the invoices and there were no common practice or structural policy to extend any type of discounts to the buyers. Such discounts were also not pre-notified or known to the buyers before the goods were cleared. In the face of such recording and also supporting evidences in the form of various types of documents produced by the assessee-Appellants, we are of the considered view that the impugned order fell in error by arriving at the conclusion

based on inference and presumptions only. When the discounts were based on post clearance arrangement and activities like damage of goods and other considerations, the same cannot be claimed as they do not fulfil the requirements of Section 4. The discounts should be pre-notified and clear at the time of clearances of goods.

5. In view of the above, the appeal is allowed.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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