CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60315 of 2018

[Arising out of Order-in-Appeal No. Appl/CE/PKL/181/2017 dated 30.11.2017 passed by the Commissioner (Appeals) of Central Excise, Panchkula]

JSL Life Style Ltd. ......**Appellant**
48 Km Stone, Rohtak Road,
Jhajjar, Haryana-124103

VERSUS

Commissioner of Central Excise, Rohtak ......**Respondent**
SCO No. 6 to 8, 10, Sector-1,
Huda Market, Rohtak, Haryana-124001

APPEARANCE:

Shri R.K. Hasija and Shri Shivang Puri, Advocates for the Appellant

Ms. Amita Gupta, 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. 60301/2026

DATE OF HEARING: 25.03.2026
DATE OF DECISION: 10.04.2026

P. ANJANI KUAMR :

M/s JSL Life Style Ltd., the appellants, are engaged in the manufacture of articles of stainless steel such as utensils, stainless steel modular kitchens etc; the appellants discharged the applicable central excise duty at the time of the clearance of the goods; during the conduct of an audit, it was observed by the department that the appellant procures orders for installation of modular kitchens and certain products are not manufactured by them; the same are procured from outside and cleared along with the manufactured items by paying duty on the value which includes the bought-out items. In some cases, the appellants supply the bought-out items directly from the head office to the site where they are installed. Department was of the opinion that the value of such items is also includable in the assessable value of the goods cleared by them. Accordingly, a show cause notice dated 19.01.2016 was issued, demanding central excise duty of Rs.21,15,758/-, for the period 2011-12 to 2015-16 along with interest and penalty, invoking extended period of limitation, was issued. The proposals in the show cause notice were confirmed vide OIO dated 20.01.2017. On an appeal filed by the appellants, Commissioner (Appeals) vide impugned order dated 30.11.2017. Hence, this appeal.

2. Shri R.K. Hasija assisted by Shri Shivang Puri, learned counsel for the appellants, submits that the period involved in the case is April 2011 to August 2015 and the show cause notice issued on 19.01.2016 invoking extended period; the appellants were regularly filing the ST-3 Returns; the audit was conducted on 07.11.2012 and therefore, the department was aware of the full facts in 2012 itself; extended period cannot be invoked as the detection was on the basis of an audit and there was no intent to evade payment of duty on the part of the appellants; mere non-payment of duty does not amount to suppression of facts etc. rendering the case liable for invocation of extended period. He relies on the following cases:

- Visen Organic Industries Pvt. Ltd. – 2008 (223) ELT 244 (Tri. Mumbai)
- Asia Automative – 1999 (113) ELT 841 (Tri.)
- Aditya College of Competitive Exam – 2009 (16) STR 154 (Tri. Bang.)

- Anand Nishikawa Co. Ltd. – 2005 (188) ELT 149 (SC)
- Uniworth Textiles Ltd. – 2013 (288) ELT 161 (SC)

3. Learned Counsel further submits that central excise duty is leviable on manufactured goods and not on bought-out items; the fact that the appellants are paying duty when the bought-out items are cleared from the factory along with the manufactured items, is not controverted; the activity of the appellant involves installation and erection of modular kitchens at customer's premises and when they are installed at the customer's premises, they become immovable and excise duty is not leviable; in the impugned case, the dispute is about the items traded by head office and supply directly to the site of the customer; the items include kitchen hoods, hobs, chimneys, ovens, microwaves and fittings, which are not integral part of the modular kitchen and therefore, it cannot be said that the value is includable. Department's reliance on MIL India Ltd. -2007 (210) ELT 188 (SC) is incorrect as the Hon'ble Apex Court did not hold that the value of bought-out items *per se* is includable in the assessable value; rather the issue is to be decided on case-to-case basis. He further submits that the items fixed/ installed by them do not take the character of manufactured goods. He relies on the following cases:

- India Tube Mills & Metal Industries – 2017 (353) ELT 353 (Tri. Mumbai)
- Emerson Network Power (India) Pvt. Ltd. – 2004 (176) ELT 168 (Tri.)
- Bharat Heavy Electricals Pvt. Ltd. – 2000 (119) ELT 350 & 578 (Tri.)
- Fujitsu India Telecom Ltd. – 2003 (151) ELT 354 (Tri.)
- Gordhandas Desai Ltd. – 2005 (179) ELT 557 (Tri.)

- Unitech Power Tranmission Ltd. – 2018 (4) TMI 902-CESTAT Mumbai
- Best & Cromption Engineering Ltd. – 2001 (11) TMI 657-CEGAT, Chennai
- Triveni Engineering & Indus Ltd. – 2000 (8) TMI 86-(SC)
- Craft Interiors Pvt. Ltd. – 2006 (203) ELT 529 (SC)
- S.S Engineer – 2018 (5) TMI 303- CESTAT- Mumbai
- Madras Power Supplies – 2002 (149) ELT 369 (Tri.)
- Virdi Brothers – 2007 (207) ELT 321 (SC)

4. Learned Counsel submits that the impugned order was passed by Assistant Commissioner, Central Excise, Rohtak whereas the issue involved is about the taxability of items installed at the customer's premises in various places and therefore, the order passed by the Asst. Commissioner, Rohtak was beyond jurisdiction. He also submits that the Show Cause notice did not propose any classification for the modular kitchens installed at the customer's premises and as such taxability is not decided and hence, duty cannot be demanded. He also submits that no penalty can be imposed as the entire case is about appreciation of the legal position. He relies on the following cases:

- J.K. Pharmachem Ltd. – 2008 (226) ELT 749 (Tri.0
- ONGC ltd. – 2002 (149) ELT 1182 (Tri.)
- Vicco Laboratories – 2005 (179) ELT 17 (SC)
- Uniflex Cables Ltd. – 2011 (271) ELT 161 (SC)
- Vijay Television (P) Ltd. – C.M.A. No.3292 of 2009 (Madras HC)

5. Ms. Amita Gupta, learned Authorized Representative for the Department reiterates the findings of the impugned order and submits that it is not correct to say that the decision of the Hon'ble Supreme Court in the case of Frick India Ltd. – 2007 (216) ELT 497

(SC) is not applicable to the present case; the facts of the case, in hand, are *pari materia* to the case of Frick India Ltd; in both cases, the issue was about includability of the value of the bought-out items procured and supplied by the head office to the site of installation. She also relies on Sirpur Paper Mills Ltd. – 1998 (97) ELT 3 (SC).

6. Heard both sides and perused the records of the case. In the instant case, the argument of the Revenue is that the items procured by the head office of the appellants are supplied directly to the customers and installed along with the items manufactured by the appellants and therefore, the value of such items requires to be included in the assessable value of the excisable products cleared by the appellants. The case of the appellants is that the bought-out items are not supplied from the factory; they are not essential parts of the items manufactured by the appellants though they are supplied and installed along with the items manufactured by them; Revenue did not classify the items installed at the customer's premises and without arriving at the classification, duty cannot be demanded on the modular kitchen systems manufactured and installed by the appellants at the premises of the customers. The appellants also strongly object to the invocation of extended period of limitation.

7. We find that Revenue seeks to include the value of the items like kitchen hoods, chimney, ovens, microwaves and fittings, bought out by the head office of the appellants and are installed along with the kitchen systems alleged to have been manufactured by the appellants. It is not the case of the Revenue that such bought out

items are manufactured by the appellants. We also find that Revenue has not made out any case that the bought-out items are essential parts of the systems manufactured by the appellants. The bought-out items may have been procured by the appellants on the request of the customers. However, by any stretch of imagination, these items cannot be said to be essential parts of modular kitchen though modern kitchens may have provisions for placement of such gadgets. Moreover, we find force in the argument of the appellants, if the Revenue is seeking to recover duty on the installation of the kitchen systems at the customer's premises; it is incumbent upon the Revenue to prove that the items are excisable after installation. Only then, the question of inclusion of the value of the bought-out items in the assessable value of manufactured products will arise. As contended by the learned counsel for the appellants, exigibility cannot be decided without determining the classification of such systems. We find that no such attempt has been made by the Revenue to arrive at the classification of the system that arises after the manufactured items and the bought-out items are installed at the customer's premises. It is another matter that when such system gets fixed to the walls and ceilings becomes immovable and the exigibility itself becomes doubtful.

8. Further, we find that Revenue seeks to rely on the decision of the Hon'ble Apex Court in the case of Frick India Ltd. (supra) and submits that the facts of the case are *pari materia*. We find that the facts are *pari materia* only with reference to the fact of presence of bought-out items supplied by the head office. In the case of Frick India Ltd., the issue involved is of bought-out items like v-belt,

pulley, belt-guard, angle guards and other items supplied along with compressors. We find that these parts in question are essential parts of the compressor which is manufactured and cleared by M/s Frick India Ltd. It is not the issue in the case before us. In the instant case, the bought-out items are like kitchen hoods, chimney, ovens, microwaves and fittings which cannot be said to be essential parts for the manufacture of modular kitchens. Therefore, to that extent, the reliance on the case of M/s Frick India Ltd. is misplaced. We also find that Hon'ble Supreme Court in the case of MIL (India) Ltd. (supra) clarified that inclusion of bought-out items depends on the facts of each case and kept open the issue of exigibility open. Therefore, we find that the cases relied upon by the Revenue are of no avail.

9. We find that Tribunal in the case of India Tube Mills and Metal Industries (supra) held that:

> 4. We have carefully considered the submissions made by both sides. We find that the Revenue has not disputed the value of 42 lakhs for each LPG bullets. However, the demand was raised only on inclusion of the value in respect of bought out items and certain activities taken place at the site for erection and installation of the said LPG bullets. We find that all these elements such as bought out items are undisputedly supplied from the supplier to the site. It is not taking part in the manufacture of LPG Bullets. These bought out parts are used only for erection and installation of LPG Bullets at site and other activity at site are also related to erection and installation. The said activity of erection and installation in our considered view is not amount to manufacture. Moreover, after erection and installation of the LPG Bullets, it becomes immovable goods. For this reason also, if at all any activity by any imagination is amount to manufacture, by virtue of immovability of LPG Bullets, the activities at site cannot be charged to excise

duty. With these undisputed facts, we are of the view that the value of 42 lakhs adopted by the appellant in respect of LPG Bullets, which is not in dispute, no further addition can be made.

10. In view of the above, we find that the issue is squarely in favour of the appellants. Moreover, we find that in the facts and circumstances of the case, invocation of extended period is not tenable. The appellants are a regular duty paying registered unit filing Returns from time to time. That being so, extended period cannot be invoked. Moreover, the issue has been taken up as a result of an audit conducted and therefore, extended period cannot be invoked as held in G.D. Goenka Private Limited – F.O. No.51088/2023 dated 21.08.2023 (CESTAT, Delhi). Moreover, the issue of includability of the value of bought-out items in the assessable value of the excisable goods has been a bone of contention between various assesses and the Revenue and there are a plethora of judgments on the issue. Therefore, the issue being related to interpretation of the provisions of law, extended period cannot be invoked.

11. In view of the above, the appeal is allowed on merits and limitation with consequential relief, if any, as per law.

(Order pronounced in the open court on 10.04.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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