Customs, Excise & Service Tax Appellate Tribunal

SCO 147-148, SECTOR-17-C, CHANDIGARH-160017

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Appeal No. E/704/2011

(Arising out of OIA- 288/CE/APPL/LDH/2010 DATED 29.11.2010 passed by the Commissioner (Appeals) of Central Excise-CHANDIGARH-II)

Modern Insecticides Limited : Appellant (s)

Vs

CCE & ST-Chandigarh-I : Respondent (s)

Represented by:
For Appellant (s) : Shri Kamaljit Singh, Advocate
For Respondent (s): Shri Bhasha Ram, AR

CORAM :
Mr. Ashok Jindal, Hon'ble Member (Judicial)
Mr. Anil G. Shakkarwar, Hon'ble Member (Technical)

Date of Hearing/Decision: 29.08.2018

ORDER No. A/62844/2018

Per : Mr. Anil G. Shakkarwar

1. After hearing both sides duly represented by Shri Kamaljit Singh, Advocate and Shri Bhasha Ram, AR. We note that the issue involved in the present appeal is recovery of duty involved in the goods which were procured under the CT-I Certificate without payment of duty from the manufacture for the purpose of export of the same. The careful consideration of the proceedings revealed that the appellant had procured 4500 Kgs Aluminium Phosphide 56% for export without payment of duty. The Central Excise Duty involved in the same was Rs. 18,0951/-. The said duty stands confirmed against the appellant with interest due thereon with equal penalty. The proceedings indicate that through ARE-I No. 75 dated 04.12.2007, the appellant had exported 2000 Kg of Aluminium Phosphide
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56%. Therefore, we hold that the appellant was not entitled to pay Central Excise Duty involved in 2000 Kg of Aluminium Phosphide so procured by the appellant. The appellant was also, therefore, not required to pay interest on the amount of Central Excise Duty involved in said 2000 kg of Aluminium Phosphide. Further, the appellant was not required to be imposed with equal penalty on the said quantity. We therefore modify the impugned order to extent that the confirmation of demand in respect of 2000 kg of Aluminium Phosphide along with related interest and equal penalty are set-aside. We further confirm the demand of Central Excise Duty involved in 2500 kg of Aluminium Phosphide along with interest thereon and reduced penalty of 25% under the provisions of Section 11 AC of the Central Excise Act, 1944 relying on the ruling by the Hon'ble Gujarat High Court in the case of Commissioner of Central Excise vs. G.P. Prestress Concrete Works reported at 2015 (323) ELT 709 (Guj.).

2. In above terms, the appeal is partly allowed.

(Dictated & pronounced in the Court)

(Ashok Jindal)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

G.Y.