CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SCO 147-148, SECTOR 17-C, CHANDIGARH-160017

DIVISON BENCH
COURT NO.1

Appeal No. E/1730/2011

[Arising out of the Order-in-Appeal No. 02/CE/APPL/DLH-IV/2011 dated 04.02.2011 passed by the CCE (Appeals), Delhi-IV, Faridabad]

Date of Hearing/Decision: 24.10.2018

For Approval & signature:

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

M/s Ecocat (India) Pvt. Ltd. **Appellant**

Vs.

CCE, Delhi-IV **Respondent**

Appearance

Shri. Prabhat Kumar, Advocate- for the appellant
Shri. M.S. Dhindsa, AR. - for the respondent

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

FINAL ORDER NO: **63438 / 2018**

Per Ashok Jindal:

The appellant is in appeal against the impugned order wherein the demand of duty has been confirmed on the ground that the appellant has not amortized the value of tools and dies in the assessable of goods cleared by the appellant.

2. The facts of the case are that the appellant is manufacturer of motor vehicle parts and developed tools and dies as the drawing and design provided by the buyers. The appellant recovered the value of the said tools and dies from the buyers along with duty on such tools and dies

but retained the same and used for manufacture of the excisable goods. In terms of Rule 6 of central Excise Valuation Rules, 2000, the cost of such dies and tools was required to amortize with the cost of excisable goods manufactured and supplied by the appellant but the appellant did not amortize the cost of tools and dies, therefore, it has been alleged that the appellant has evaded duty on tools and dies and violated the provisions of Central Excise Rules, 2002. In these set of facts, the proceedings were initiated against the appellant and demand of duty along with interest has been confirmed and equivalent amount of penalty was imposed. Against the said order, the appellant is before us.

3. The ld. Counsel for the appellant submits that as per the explanation 1 (ii) the value of tools and dies are not required to be added in the assessable value as the same has been used captively for manufacture of the product. In that circumstances, the impugned order is not sustainable and required to be set aside. He further submits that as the appellant has already charged the duty from the buyers for fabrication of tools and dies, therefore, the same cannot be demanded against from the buyers twice.

4. On the other hand, the ld. AR submits that in terms of Rule 6 of the valuation of Rules, the value of tools and dies are required to amortize in the cost of goods manufactured by the appellant. He relied on the decision of this Tribunal in the case of ***Lear Automotive India Pvt. Ltd. reported in 2014 (311) ELT 65 (Tri. Ahd.).***

5. Heard the parties and considered the submission.

6. On careful consideration of submissions made by both the sides, we find that the appellant has already charged duty on these tools and dies developed by the appellant from the buyers. In these circumstances, the cost of tools and dies is not required to amortize in the value of the motor vehicle parts manufactured by the appellant.

In that circumstances, the impugned order is set aside and we allow the appeal with consequential relief if any.

(Dictated and pronounced in the open court)

Anil G. Shakkarwar
Member (Technical)

Ashok Jindal
Member (Judicial)

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