CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SCO 147-148, SECTOR 17-C, CHANDIGARH – 160 017

COURT NO. I

Sr. No	Case No	Impugned Order Detail's	Date of Impugned Order	Passed By	Appellant	Respondent
1	E/2065/2008-DB	OIA- 115-120/ANS/RTK/2008	30/06/2008	Commissioner of Central Excise-DELHI-III	NIRMAL CHEMICAL	C.C.E.-DELHI-III
2	E/2066/2008-DB	OIA- 115-120/ANS/RTK/2008	30/06/2008	Commissioner of Central Excise-DELHI-III	NIRMAL CHEMICAL	C.C.E.-DELHI-III
3	E/2067/2008-DB	OIA- 115-120/ANS/RTK/2008	30/06/2008	-	SH RAJEEV JUNEJA, EX-PARTNER	C.C.E.-DELHI-III
4	E/2068/2008-DB	OIA- 115-120/ANS/RTK/2008	30/06/2008	Commissioner of Central Excise-DELHI-III	SH RAJEEV JUNEJA, EX-PARTNER	C.C.E.-DELHI-III
5	E/2069/2008-DB	OIA- 115-120/ANS/RTK/2008	30/06/2008	Commissioner of Central Excise-DELHI-III	SH SANJEEV JUNEJA, EX PARTNER	C.C.E.-DELHI-III
6	E/2070/2008-DB	OIA- 115-120/ANS/RTK/2008	30/06/2008	Commissioner of Central Excise-DELHI-III	SH SANJEEV JUNEJA, EX PARTNER	C.C.E.-DELHI-III

Date of hearing/decision: 19.02.2019

Appearance:
Present for the Appellant(s): Shri B.L. Narsimhan (Advocate)
Present for the Respondent(s):Shri Harvinder Singh (AR)

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. Bijay Kumar, Member (Technical)

FINAL ORDER NO. 60235-60240/2019

***Per :* Ashok Jindal**

The appellants are in appeal against the impugned order wherein the duty has been demanded from the appellants and penalty was also imposed on the appellants.

2. The facts of the case are that during the course of investigation, it was found that most of the goods have been cleared by the appellant to M/s Hitkari Gram Udyog Sangh, the

related person on transaction value. The case of the Revenue is that as the appellant is clearing most of their products to their related persons, therefore, they are required to pay duty in terms of Rule 11 of valuation rules read with Rule 9 and Rule 8 of the valuation Rules. Therefore, the show cause notice was issued to the appellants and the demand of duty was confirmed. Against the said order, the appellants are before us.

3. Heard the parties and considered submissions.

4. We find that it is an admitted fact by both the sides that most of the goods have been cleared by the appellant to the alleged related persons, therefore, it is not the case of the Revenue that 100% goods have been cleared to the alleged related persons, in that circumstances, the provisions of Rule 11 read with Rule 9 and 8 of valuation rules are not applicable to this case. In the light of the decision of this Tribunal in the case of ***H.H Interior & Auto Components Ltd. Vs. C.C.E., Delhi-IV Faridabad reported in 2018 (360) E.L.T. 1058 (Tri.-Chan.)***, wherein this Tribunal observed as under:

> ***"6.*** *The short issue involved in the matter is whether the provisions of Rule 9 read with Rule 8 of the Valuation Rules are applicable to the appellant when the appellant is clearing goods to independent dealer as well as to sister concern or not?*
>
> *For better appropriation, Rule 9 has to be seen which is reproduced herein as Under:-*
>
> *Rule 9. When the assessee so arranges that the excisable goods are not sold by him except to or through a person who is related in the manner specified in either of sub-clauses (ii), (iii) or (iv) of clause (b) of sub-section (3) of Section 4 of the Act, the value of the goods shall be the normal transaction value of which these are sold by the related person at the time of removal, to buyers (not being related person); or where such goods are not sold to such buyers to buyers (being related person), who sells such goods in retail:*

Provided that in a case where the related person does not sell the goods but uses or consumes such goods in the production or manufacture of articles, the value shall be determined in the manner specified in Rule 8.

The said order has attained finality by the Hon'ble Apex Court as reported in ***2018 (360) E.L.T. A312 (S.C)***. Therefore, we do not find any merit in the impugned order, the same are set aside.

5. In result, the appeals are allowed with consequential relief.

(Order dictated and pronounced in the open court)

Bijay Kumar
Member (Technical)

Ashok Jindal
Member (Judicial)

Kailash