IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

E/168/2008

(Arising out of Order-in-Appeal No.7/2007 (M-IV) (D) dated 30.11.2007 passed by the Commissioner of Central Excise (Appeals), Chennai)

Commissioner of Central Excise, Chennai – IV Appellant

Vs.

M/s. TVS Autolec Ltd. Respondent

Appearance

Shri S. Govindarajan, AC (AR) for the Appellant
None for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **17.08.2017**

Final Order No.41733/2017

Per Bench

Brief facts of the case are that the respondents are engaged in the manufacture of water pumps and oil pumps for automobile industry falling under TSH 8511 & 8536 of the CETA, 1985. Based on certain investigations, a show cause notice was issued on the respondent on the ground that in respect of the clearances made to their related concerns/dealers, the respondent had not adopted a value based on 115% of the cost production and accordingly would be liable to pay differential duty on such clearance. After due process of law, the adjudicating authority dropped the proceedings by holding that the transaction value that was adopted to independent buyers would hold good for the clearances made to the related persons and hence the respondents are not liable to pay any differential duty. The department filed appeal before the Commissioner (Appeals) and vide the impugned order herein, the Commissioner (Appeals) upheld the decision of the original authority who dropped the proceedings. Being aggrieved, the department has now come before the Tribunal.

2. On behalf of the department, learned AR Shri S. Govindarajan reiterated the grounds of appeal. None appeared on behalf of the respondent even though notice was issued.

3. The appeal is taken up for hearing after hearing the learned AR as well as perusal of the records.

4. The issue is whether in respect of removals made to related persons, the assessee has to adopt the value based on 115% of cost of production as contended by the department. The assessee admittedly is clearing the goods to independent buyers as well as to related buyers and the assessee has adopted the price applicable to independent buyers for the

transaction made to related buyers. This issue stands covered by the decision of the Tribunal in the case of Aquamall Water Solutions Ltd. Vs. Commissioner of Central Excise – 2008 (182) ELT 196 (Tri. Bang.) which was upheld by the Hon'ble Supreme Court as reported in 2006 (193) ELT A197 (SC) on the appeal filed by Revenue. We, therefore, do not find any ground to interfere with the impugned order passed by the authority below. The impugned order is upheld and the appeal filed by the department is dismissed.

(Operative portion of the order was pronounced in open court)

Sulekha Beevi

(**Madhu Mohan Damodhar**)
Member (Technical)

(**Sulekha Beevi C.S.**)
Member (Judicial)

Rex

Customs Excise & Service Tax Appellate Tribunal

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