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

C/178/2009

(Arising out of Order-in-Appeal C. Cus. No. 51/2009 dated 29.1.2009 passed by the Commissioner of Customs (Appeals), Chennai)

Commissioner of Customs, Chennai Appellant

Vs.

M/s. Hyundai Motors India Ltd. Respondent

Appearance

Shri B. Balamurugan, AC (AR) for the Appellant
Shri Mansoor Ilahi, Advocate 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: **16.08.2017**

Final Order No. 41735/2017

Per Bench

Brief facts of the case are that the respondents are manufacturers of motor vehicles and in course of their manufacturing activity, they imported various components / parts from abroad. Pending issue of investigation by the SVB, the Bills of Entry were provisionally assessed. The respondents had imported electronic control unit classifiable under CTH

Customs, Excise & Service Tax Appellate Tribunal

8543. The department was of the view that the same would fall under CTH 9032. The respondents lodged a protest against the classification. Meanwhile, SVB upheld the transaction value and the Bills of Entry were finally assessed without any change in the classification. The assessee then filed appeal before Commissioner (Appeals) contending that the Bills of Entry were finally assessed without taking the protest into account. Commissioner (Appeals) vide impugned order herein set aside the order passed by the original authority and remanded the matter to reopen the assessment and considering the same afresh on merits. The department is in appeal against such order.

2. On behalf of the department, the learned AR Shri B. Balamurugan reiterated the grounds of appeal. Shri Mansoor Ilahi, Advocate appeared on behalf of the respondent.

3. Heard both sides and perused the records.

4. We find that the Commissioner (Appeals) has only remanded the matter for reconsideration of the issue since the protest was kept alive and that the original authority had not vacated the protest before issuing appropriate orders on the classification of the item. We find no merit in the contentions put forward by the department in the appeal since the order is only directing a remand for reconsideration of the issues. In

Customs, Excise & Service Tax Appellate Tribunal such score, the department's appeal is devoid of merit and is dismissed.

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

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

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

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