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

Appeal Nos.E/344 to 346/2008

[Arising out of Order-in-Appeal No.56/2008-CE, 57/2008-CE and 58/2008-CE dt. 10.04.2008, passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore]

1. Ransar Industries Ltd.,Unit-I
2. CRI Pumps
3. Ransar Industries Ltd., Unit-II

Appellant

Versus

Commissioner of Central Excise & ST,
Coimbatore

Respondent

Appearance:

Shri D.Santhana Gopalan, Advocate
For the Appellant

Shri S. Govindarajan, AC (AR)
For the Respondent

CORAM :

Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of hearing / decision : 22.03.2017

FINAL ORDER No. 40532-40534/2017

Per D.N. Panda

Ld. counsel says that in all the three appeals, duty element has been discharged. Valuation issue was in question in all these appeals. That being a matter of interpretation, the assessee should not suffer penalty.

Customs, Excise & Service Tax Appellate Tribunal

2. Proposition of the ld. counsel has reason since valuation is a matter of application of the law and nothing deliberate intention of the appellant comes out from the order to appreciate that the appellant caused evasion. Accordingly, there shall not be penalty under Rule 25 of the Central Excise Rules, 2002. Assertion of the appellant that duty element has been discharged needs verification. The authority shall do such exercise and be satisfied appropriately .

3. In the result, all the three appeals are allowed with above direction.

4. After passing the above order, it has been brought to our notice by Ld. D.R that above order will cause prejudice to the interest of justice since principal issue of the appellant has already been remanded by Tribunal in Appeal Nos.E/422, 622, 627/2006 by Final Order No.41937-41941/2016 passed on 17.10.2016 and the issue of penalty is a consequence thereof. Accordingly till the principal issue is decided, Tribunal should not decide penalty issue.

5. Ld. counsel says that he had no deliberate intention to suppress above fact since he was not aware of the implication of above order.

6. Considering the submission of ld. DR, we withdraw aforesaid order and pass following order :

Present appeals having emanated from a principal issue which was in appeal before Tribunal in Appeal No.E/422, 622 and 627/2006 and remanded vide **Final Order No.41937-41941/2016 dt. 17.10.2016** and pending before the adjudicating authority for readjudication, these appeals are premature for which those are dismissed and order recorded in para 3 above shall not be operative.

7. Ld. Counsel is warned not to suppress material fact before Court in future.

(Dictated and pronounced in open court)

24/03/2017

(Madhu Mohan Damodhar)
Technical Member

24/3/2017

(D.N. Panda)
Judicial Member

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Customs, Excise & Service Tax Appellate Tribunal

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