

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

Appeal Nos. E/48/2009, E/49/2009 and E/63/2009

(Arising out of Order-in-Appeal Nos.11 & 12/2009 dated 7.1.2009 and Order-in-Appeal No.116/2008-CE dated 16.12.2008 all passed by the Commissioner of Central Excise (Appeals), Coimbatore)

M/s. C.R.I. Pumps (P) Ltd.

Appellant

Vs.

CCE, Coimbatore

Respondent

Appearance

Shri V. Panchanathan, Advocate for the Appellant
Shri S. Nagalingam, 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: **24.03.2017**

Final Order Nos. 40544-40546/2017

Per D.N. Panda

Appellant says that it was before the Tribunal in a batch of appeals as has been dealt in Final Order No.40203 to 40219/2017 dated 10.2.2017. He says that when there was a common input used in the manufacture of finished goods and scrap was generated, Revenue says that the appellant is liable to a percentage of sale value to be payable under Rule 6(2) of



CENVAT Credit Rules, 2004. He relies on the decision of the Apex Court in the case of Swadeshi Polytex Ltd. Vs. Collector of Central Excise reported in 1989 (44) ELT 794 (SC). Also it is his submission that considering that the appellant has not generated scrap and that was exempted at the relevant point of time and no duty was payable, its appeals were allowed.

2. There is no averment from Revenue whether our order aforesaid has been challenged before higher courts or stayed.

3. In absence of any stay order against the above final order of the Tribunal, being guided by the Apex Court judgment cited supra and our previous order, Appeal Nos. E/48/2009 and E/63/2009 are allowed.

Appeal No. E/49/2009

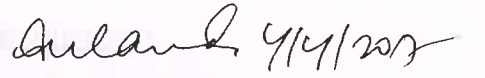
4. Considering that there is a small penalty of Rs.63,984/- and duty having been paid, this appeal is dismissed on pecuniary jurisdiction.

(Dictated and pronounced in open court)



(MADHU MOHAN DAMODHAR)
Technical Member

04⁰⁴
2017



(D.N. PANDA)
Judicial Member

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सहायक पंजीकार / Asst. Registrar
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