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

E/411/2010

(Arising out of Order-in-Appeal No. 26/2010 (M-IV) dated 03.0~~8~~4.2010 passed by the Commissioner of Central Excise, (Appeals), Chennai).

M/s. Hyundai Motor India Ltd. — Appellant

Vs.

CCE, Chennai-IV — Respondent

Appearance

Shri S. Muthuvenkataraman, Advocate
for the appellant

Shri K. Veerabhadra Reddy, JC (AR)
for the Respondents

CORAM :

Hon'ble Smt. ARCHANA WADHWA, JUDICIAL MEMBER
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing/Decision: **24.10.2017**

FINAL ORDER No. 42500 **/2017**

Per: Madhu Mohan Damodhar

The appellants have filed refund claim of Rs. 17,33,50,471/- by stating that the discount passed on includes excise duty and the refund amount was worked out considering the abatement allowed as cum-duty value. The original authority had rejected the claim on the ground that the appellants appeared to have been passed on the incidence of duty to the buyer. On appeal, vide impugned order dated 29.03.2010, the Commissioner (Appeals) has upheld the order of the original authority. Hence this appeal.

2. Today when the matter came up for hearing, on behalf of the appellants, Ld. Advocate submits that they had produced Chartered Accountant's Certificate before the lower appellate authority however, the same was rejected by the Commissioner (Appeals). They plead that they may be given one more opportunity to prove that they have not passed on the incidence of duty liability.

3. On the other hand, Ld. AR supports the impugned order.

4. Heard both sides.

5. On going through the impugned order, it is seen that the Commissioner (Appeals) has held that the contentions of the appellants are not convincing enough as the same is based on mere assumptions and presumptions and they have not come up with corroborative evidence to prove that the duty burden is indeed passed on and that the CA certificate is silent about whether the excise duty element is passed on to the customers. Evidently, sufficient documentation has been not adduced before the lower authorities. We are therefore of the opinion that the matter requires to be remanded back to the original authority to enable the appellants to produce sufficient evidence in support of their stand. Needless to say, on such denovo proceedings the original

authority shall give adequate opportunity to the appellants to produce such additional evidence.

6. The appeal is allowed by way of remand.

(Order dictated and pronounced in the open Court on)

30/10/17

(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

(ARCHANA WADHWA)
JUDICIAL MEMBER

BB