

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

E/811/2007

(Arising out of Order-in-Appeal No. 131/2007 (P) dated 31.8.2007 passed by the Commissioner of Central Excise (Appeals), Chennai)

Commissioner of Central Excise, Puducherry Appellant

Vs.

M/s. MRF Ltd. Respondent

Appearance

Shri S. Nagalingam, AC (AR) for the Appellant
Shri Karthik Sundaram, Advocate for the Respondent

CORAM

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

Date of Hearing / Decision: **04.01.2017**

Final Order No. 40016/2017

Per D.N. Panda

Revenue says that when the cost data was provided wrongly while finalizing provisional assessment, Revenue has been prejudiced. Such allegation has been brought out in para 2 of the show cause notice. Instead of providing the entire cost data, the respondents provided only overhead expenses of the second half of the year stating that to be Rs.75.02 per kg. while the actual factory overhead was Rs.106.20 per kg. That

[Handwritten signature]



difference has caused prejudice to determine the assessable value.

2. We are conscious that such a mis-declaration has caused prejudice to Revenue. But we are not able to understand from the facts of the present case as to whether the officer conducting his adjudication has applied his mind in good faith to law. If he fails to discharge his duty under law, having his own scope to call for entire details, it is very difficult to appreciate the Revenue's case after twelve years. We are guided by the Apex Court judgment in the case of Nizam Sugar Factory Vs. Collector of Central Excise reported in 2006 (197) ELT 465 (SC) to reach to the above conclusion.

3. In the result, Revenue appeal is dismissed.

(Dictated and pronounced in open court)

 04⁰¹/2017

(MADHU MOHAN DAMODHAR)
Technical Member

 4.1.2017

(D.N. PANDA)
Judicial Member

Rex



प्रमाणित प्रति / Certified True Copy

सहायक पंजीकार / Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर
अपील अधिकारम / (CESTAT)
चेन्नै / Chennai