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

E/1053/2003

(Arising out of Order-in-Appeal No. 348/2003 dated 30.09.2003 passed by the Commissioner of Central Excise (Appeals), Madurai).

M/s. Sree Kaderi Ambal Steels Ltd. Appellant

Vs.

CCE & ST, Madurai Respondent

Appearance

Shri A. Seetharaman, Advocate,
for the appellant

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

CORAM :

Hon'ble Ms. Sulekha Beevi, Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing/Decision: 24.08.2017

FINAL ORDER No. 41882**/2017**

Per: Bench

The appellants are engaged in the manufacture of Rods & Bars of Iron and Steels falling under Chapter Heading 7214.90 and Angles & Shapes of non-alloy steel falling under 7216.10 of CETA, 1985. With effect from 01.09.1997 the appellant's unit was working under Compound Levy Scheme. The Commissioner of

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Central Excise, Madurai, determined the annual production capacity of the unit provisionally in accordance with Hot Steel Re-rolling Mills Annual Capacity Determination Rules 1997, and directed the appellants to discharge the duty liability. The appellants have failed to pay the duty for the period November 1998 to March 2000 and hence a SCN was issued proposing duty liability under the provisions of Rule 96ZP(3) along with interest and imposition of penalty for contravention of Rule 96ZP (3) of CER. The adjudicating authority confirmed duty demand vide order dated 29.12.2000. In appeal, the Commissioner (Appeals) rejected the appeal filed by the appellants. Hence the appellants are before this forum..

2. On behalf of the appellant, Ld. Consultant Shri A. Seetharam, placed written submission and relied upon the judgment of the Hon'ble Apex Court in the case of *Bhuwalka Steel Industries Ltd. Vs. UOI – 2017 (348) ELT 393 (S.C.)* wherein the Hon'ble Apex Court opined that the decisions rendered in the case of *Venus Castings* – 2000 (117) ELT 273 and *Supreme Steels and General Mills* – 2001 (133) ELT 513 (S.C.), has to be revisited and has referred to a Larger Bench.

3. On the other hand, Ld. AR reiterated the findings in the impugned order.

4. Heard both sides and have gone through the records.

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5. The issue involved in this appeal relates to the duty demand on account of Annual Capacity Determination. The said provision for the subject of litigation before the Hon'ble Apex Court and by the recent judgment in the case of Bhuwalka Steel Industries Ltd. (supra), the Hon'ble Apex Court has referred the issue to a Larger Bench. In view thereof, we consider it fit to remand the matter to the original authority, who shall determine the ACP and duty demand if any after the outcome of the judgment of the Hon'ble Apex Court in the case of Bhuwalka Steel Industries Ltd., which has been referred to a Larger Bench.

6. The appeal is thus allowed by way of remand.

(Operative part of the order pronounced in the Open Court)

(MADHU MOHAN DAMODHAR)
MEMBER (TECHNICAL)

Sulekha Beevi
(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

BB

Customs, Excise & Service Tax Appellate Tribunal

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