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

Appeal Nos. E/216, 250/2007

[Arising out of Order-in-Appeal No.01/2007 (M-I) dt. 12.01.2007 and OIA No.12/2007 (M-I) dt. 25.01.2007 passed by the Commissioner of Central Excise (Appeals),Chennai]

Commissioner of Central Excise,
Chennai-I — Appellant

Versus

Ennore Foundries Ltd. — Respondent

Appearance:

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

Shri M. Kannan, Advocate
For the Respondent

CORAM :

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

Date of hearing / decision : 24.08.2017

FINAL ORDER No. 41886 – 41887/2017

Per Bench

The brief facts of the case are that respondent engaged in the manufacture of cast articles of Iron and Aluminium which are principally used in motor vehicles is registered with the Central Excise

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Department. They had also started manufacture of castings of which prices normally showed an upward trend. As the purchase orders with customers for castings did not contain price escalation clause for any increase in the prices of inputs like raw material including petroleum products etc., they were entitled to determine the price on a monthly or quarterly basis and requested for provisional assessment for the period 2005-06. The request was denied by the original authority vide Order-in-Original dt. 17.11.2005 and order dt.18.4.2006. Against this, the appellant filed appeals before the Commissioner (Appeals) who set aside the orders of the original authority and held that the respondent should be allowed provisional assessment. Against the said order, the department has filed the present appeals.

2. At the time of hearing, ld. Counsel Shri M. Kannan appearing on behalf of respondent submitted that period involved is 2005-06 and the order was only with regard to allowing the respondent for provisional assessment. During the time of appeals filed by department, there was no execution of the orders and the assessments are now completed. Therefore the appeals filed by the department have become infructuous.

3. On perusal of records as well as hearing the ld. A.R and the counsel for respondent, we find that the appeals filed by the department are to restore the orders passed by the adjudicating

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authority, rejecting the request of the respondent for provisional assessment. It is now submitted that by the respondent-counsel that there was no provisional assessment. Therefore at present, the appeals filed by the department are therefore dismissed as infructuous.

(Operative part of the order pronounced in court)

(Madhu Mohan Damodhar)
Member (Technical)

Sulekha Beevi

(Sulekha Beevi C.S)
Member (Judicial)

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Customs, Excise & Service Tax Appellate Tribunal

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1/2/19

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