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

E/620/2007

(Arising out of Order-in-Appeal No.79/2007 (P) dated 29.5.2007 passed by the Commissioner of Central Excise (Appeals), Chennai)

M/s.Lotte India Corporation Ltd. Appellant

Vs.

CCE, Puducherry Respondent

Appearance

Shri S. Muthuvenkataraman, Advocate for the Appellant
Shri S. Govindarajan, 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: **08.03.2017**

Final Order No. 40418/2017

Per D.N. Panda

It is brought to our knowledge that the Commissioner (Appeals) had a preconceived notion to dismiss the appeal of the appellant. This is patent from the paragraphs appearing at page 3 of his order.

2. Learned counsel says that had the authority considered the law properly and also the nature of the clearances

Customs, Excise & Service Tax Appellate Tribunal considered, there would not have any anomaly in law. He relies on the judgment of the Hon'ble Supreme Court in the case of Commissioner of Central Excise, Bangalore Vs. Himalaya Drug Company reported in 2015 (324) ELT 9 (SC).

3. Revenue says that the appellate authority relied on the Board Circular and passed appropriate order.

4. Heard both sides and perused the records.

5. Tribunal does not intend that the authority below shall cause injustice with the predetermined mind to dismiss the appeal of the assessee. Even though the appellate authority has passed an order in some other case, he should bring out a distinction or similarity how that case is similar to this case of the appellant before him. Passing of mechanical order ~~sans~~ shakes the confidence of the litigant public. Therefore, we now direct that :

(i) He shall bring out the material facts succinctly on record.

(ii) Examine the evidence that is available on record or that may be adduced by the appellant.

(iii) The authority shall apply the law properly as that is in statute book and also the judicial pronouncement on the subject.

6. Recording the pleadings and evidence, authority shall pass reasoned and speaking order. If quasi-judicial exercise is done in the manner indicated above, the order shall be

accepted as a reasoned and speaking order and shall imbibe the confidence of the litigant public.

7. In the result, appeal is remanded to learned Commissioner (Appeals) who shall pass appropriate order, after affording reasonable opportunity of hearing to the appellant, by 30th June 2017.

(Dictated and pronounced in open court)

09/03/2017

8/3/2017

(MADHU MOHAN DAMODHAR)
Technical Member

(D.N. PANDA)
Judicial Member

Rex

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति / Certified True Copy
सहायक पंजीकार / Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर अपील अधिकरम / (CESTAT)
चेन्नै / Chennai