

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

E/550 to 552/2008

(Arising out of Order-in-Appeal No. 54 to 56/2008 (M II) dated 18.8.2008 passed by the Commissioner of Central Excise (Appeals), Chennai)

Commissioner of Central Excise, Chennai – II Appellant

Vs.

M/s. BOC India Limited

Respondent

Appearance

Shri S. Govindarajan, AR (AC) for the Appellant
None for the Respondent

CORAM

Hon'ble Shri D.N. Panda, Judicial Member

Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of Hearing / Decision: **10.03.2017**

Final Order Nos. 40462-40464/2017

Per D.N. Panda

None present for the respondent.

2. Revenue being unsuccessful before learned Commissioner (Appeals) who held that the cylinder holding charges not being related to manufacture shall not form part of assessable value, has come in appeal before Tribunal.

3. Learned AR submits that there are various expenses prescribed to form part of assessable value under section 4(3)(d) of Central Excise Act, 1944 and such includibility issue,



in the case of Grasim Industries Ltd. reported in 2016 (334) ELT 385 (SC) has been referred to the Larger Bench of the Supreme Court.

4. He further says that in a similar case whether such element should form part of the assessable value or not, Tribunal in Appeal No. E/661/2005 has remitted the matter to the adjudicating authority vide Final Order No. 42311/2017 dated 22.11.2016 directing that authority to readjudicate the matter on the basis of the outcome of the Larger Bench decision of the Apex Court in the above said case.

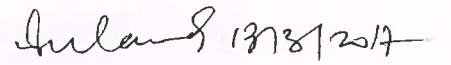
5. Keeping in view the judicial discipline, we agree with Revenue and send the matter back to the learned adjudicating authority with the direction to readjudicate the matter as suggested by Revenue aforesaid.

6. In the result, all the three appeals are remanded to learned adjudicating authority.

(Dictated and pronounced in open court)

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(MADHU MOHAN DAMODHAR)
Technical Member

 13/8/2017

(D.N. PANDA)
Judicial Member

Rex



प्रमाणित प्रति / Certified True Copy

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