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

E/817 to 819/2007

(Arising out of Order-in-Appeal No. 4/2007 (M-IV) (D) dated 31.8.2007 passed by the Commissioner of Central Excise (Appeals), Chennai)

M/s. Karthik Industries
M/s. Cosmic Trading Co.
M/s. S.K.S. Industries — Appellants

Vs.

CCE, Chennai – IV — Respondent

Appearance

Shri J. Shankar Raman, Advocate for the Appellant
Shri R. Subramaniyam, 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: **17.03.2017**

Final Order Nos. 40507-40509/2017

Per D.N. Panda

Learned counsel says that Revenue has adopted the price of the goods what that was the highest and sold to an outsider compared to the sale value of the same made to the related person. The goods in this question are grille as is appearing in para 3.6 depicting the Table thereat. There were two related buyers and the goods were cleared during the period 2003 –

2004 at Rs.100/- whereas the price charged from other buyers Ranged between Rs.100/- and Rs.320/-.

2. Surprisingly, there is nothing made out by Revenue to show that the value of Rs.100/- to Rs.320/- existed throughout the year or has fluctuated during the year.

3. Law is well codified under section 4 of the Central Excise Act, 1944 that the time of clearance and the place of removal are very significant to determine the assessable value. That being not followed and time being essence of the valuation, the authorities have failed to bring to the notice of the appellant for rebuttal. In absence of any ground in the show cause notice as to the prevailing of the price of the goods sold to other persons during different periods in what manner ranged from Rs.100/- to Rs.320/-, there cannot be a value adoption of the unrelated buyers' price to the un-related sale. Consequently, Revenue fails on its allegation for which the appeals are allowed.

4. In view of the principal appeal succeeding, the other two appeals also succeed.

5. In the result, all the three appeals are allowed.

(Dictated and pronounced in open court)

30.03.2017

(MADHU MOHAN DAMODHAR)
Technical Member

17/3/2017

(D.N. PANDA)
Judicial Member

Rex

Customs, Excise & Service Tax Appellate Tribunal

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चेन्नै/Chennai