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

E/243/2008

[Arising out of Order-in-Appeal No.01/2008, dated 29.02.2008 passed by the Commissioner of Central Excise (Appeals)] Chennai.

COMMISSIONER OF CENTRAL EXCISE, PONDICHERRY — APPELLANT

Versus

M/s. Rane Brake Linings Ltd — RESPONDENT

Appearance:

For the Appellant	Shri K.P. Muralidharan	AC (AR)
For the Respondent	Shri M. Karthikeyan,	Adv.

CORAM:

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

Date of hearing/decision **03-08-2017**

FINAL ORDER NO. 41508/2017

Per Bench

The respondents are engaged in manufacture of Brake Linings, Clutch facings, Assembly pods, Disc pads etc. They manufactured and cleared 'inner assembly pad' and 'outer assembly pad' to M/s. Mando Brake Systems India Ltd on job work basis. M/s. Mando has supplied input materials free of cost under the cover of delivery challan under Rule 4(5)(a) of CCR, 2004. The respondents cleared goods to M/s. Mando on payment of

Customs, Excise & Service Tax Appellate Tribunal duty. Show cause notice was issued for the period 2001-02 to 2004-05 alleging that respondent has not included the free inputs in the assessable value. After adjudication, the adjudicating authority dropped the demand relying on the judgment in the case of *M/s. International Auto Ltd. 2005(183) E.L.T. 239 (S.C.).* The department filed appeal before the Commissioner (Appeals) on the ground that the facts in International Auto Ltd case is not applicable. The Commissioner (Appeals) dismissed the appeal of department. Hence this appeal.

2. On behalf of department, the Learned AR, Shri. K.P. Muraleedharan reiterated the grounds of appeal. In the present case the Principal, M/s. Mando had not filed any declaration in terms of notification 214/86 and that therefore the judgment in the case of International Auto is not applicable on facts. Further that M/s. Mando has availed credit on the duty paid.

3. On behalf of respondent the Learned Counsel Shri. M. Karthikeyan submitted that after job work the goods were cleared to the Principal itself and that appellant did not clear goods to any other customer. Even if duty is demanded, the whole situation would be revenue – neutral since M/s. Mando would be eligible to avail credit on the duty paid. He relied upon the judgment in the case of *Ghatge Patil Inds. Ltd Vs. Commissioner of Central Excise, Pune 2015 (320) E.L.T. 646 (Tri. - Mumbai)* and *SRF Ltd Vs Commissioner of Central Excise, Chennai 2007 (220) E.L.T. 201 (Tri. - Chennai).*

4. Heard both sides.

5. The issue is that the respondents after job work, while clearing the goods to their Principal did not include the cost of free inputs / raw materials

Customs, Excise & Service Tax Appellate Tribunal supplied. The respondents are engaged in manufacture of automobile parts. In Ghatge Patil Inds. Ltd (supra) the Tribunal has relied upon International Auto Products case to hold that such addition of free supplied parts is not to be included in the assessable value. The same view has been maintained by Apex Court by dismissing the Civil appeal filed by department reported in *2015 (322) E.L.T. A28 (S.C.).* In SRF Ltd (supra) the Tribunal was of the view that the entire exercise would be revenue neutral and therefore the demand cannot sustain. This view was maintained by the Hon'ble Supreme Court by dismissing the appeal filed by department as reported in *2016 (331) E.L.T. A138 (S.C.).* Following the judgment in the case of SRF Ltd (supra) we are of the considered view that the situation being a revenue neutral one, the authorities below have rightly dropped the proceedings. The impugned order calls for no interference. The appeal is dismissed.

(Dictated and pronounced in open court)

(Madhu Mohan Damodhar)
Member (Technical)

(Sulekha Beevi C.S)
Member (Judicial)

Dillibabu

Customs, Excise & Service Tax Appellate Tribunal

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