CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL NEW DELHI.

PRINCIPAL BENCH - COURT NO. II

Excise Appeal No. 52461 of 2018-SM

(Arising out of order-in-appeal No. 115(SM)CE/JPR/2018 dated 01.03.2018 passed by the Commissioner (Appeals) Central Excise & Central Goods & Service Tax, Jaipur).

M/s Nav Bharat Tubes Limited **Appellant**
94-D, Jhotwara Industrial Area
Jaipur (Rajasthan).

VERSUS

Commissioner, Central Goods and Service Tax & Central Excise **Respondent**
NCRB, Statue Circle, C-Scheme, Jaipur.

APPEARANCE:

None for the appellant
Shri Pradeep Gupta, Authorised Representative for the respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO. 51766/2021

DATE OF HEARING/DECISION: 17.08.2021

ANIL CHOUDHARY:

The issue involved in this appeal is whether the activity of galvanisation of MS Angles and foundation frame, received by the appellant from the principal manufacturer (from whom they have received job charges towards galvanization) amounts to manufacture or not.

2. The appellant is absent inspite of notice and several adjournments were given by way of last chance. By order dated 23.06.2021, a notice was served on the appellant by speed post as well as by e-mail, which has been served on the appellant on 14.07.2021. As per the down loaded report from India Post website, notice was delivered on 20.07.2021, also by speed post.

3. The appellant has received notice of hearing by e-mail, and have in reply, relied on the ruling in the case of **Krishna Saa Fabs Pvt. Limited vs. Commr. of Cus. & C. Ex. Tirupati -2016 (344) ELT 1114 (Tri. Hyd.)** wherein this Tribunal under the fact that M/s Krishna Saa Fabs was engaged in the activity of procuring M.S. Bars and HA Steel ribbed strips, and thereafter subjecting them to cutting to size of various lengths, drilling / punching of hole; and galvanization. This Tribunal relying on the Larger Bench decision of the Tribunal in the case of **Mahindra & Mahindra vs. Commissioner -2005 (190) ELT 301 (Tri. LB)** have held that such process of cutting, drilling / punching and /or galvanization does not amount to manufacture. Against the said ruling of the Tribunal, Revenue had preferred Civil appeal before the Hon'ble Supreme Court, which was dismissed - observing that in view of the low tax effect, the Supreme Court is not inclined to entertain the appeal and dismissed the appeal keeping the question of law open, reported as **Commissioner vs. Krishna Saa Fabs Pvt. Ltd., - 2017 (347) ELT A29 (SC)**.

4. Following the ruling of this Tribunal in Larger Bench in **Mahindra & Mahindra** (supra), I allow this appeal setting aside the impugned order.

5. The appellant is entitled to consequential benefits, in accordance with law.

(Dictated and pronounced in open Court).

(Anil Choudhary)
Member (Judicial)

Pant