CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 06.01.2017

Excise Appeal No. 52861, 52862, 53201, 53202 & 53199-53200 of 2015

(Arising out of order-in-original No. ALW/EXCUS/000/COM/016/14-15 & ALW/EXCUS/000/COM/022/14-15 dated 24.03.2015 and dated 30.03.2015 passed by the Commissioner of Central Excise, Alwar)

Sushil Kumar Sharma — Appellant
M/s Cords Cable Industries Limited

Vs.

CCE, Alwar — Respondent

Appearance:

Sh. P. K. Mittal, Advocate for the Assessee
Sh. G. R. Singh, AR for the Revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order Nos. 50193 – 50198/ 2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeals have been filed against the impugned order-in-original No. ALW/EXCUS/000/COM/016/14-15 & ALW/EXCUS/000/COM/022/14-15 dated 24.03.2015 and dated 30.03.2015 passed by the Commissioner of Central Excise, Alwar.

2. Brief facts of the case are that the appellant is engaged in the manufacture of power cables. They are clearing the cable to various Mega Power Projects

against International competitive bidding by availing the exemption under Notification No. 12/2012-CE dated 17.03.2012 (S. No. 326) and earlier Notification No. 6/2006 dated 1.3.2006 (S. No. 91). During the course of manufacture of finished goods, armoured cable or cable at armoured stage, sheathed wire were arising which was chargeable to duty as these cables were used captively by the appellants. Therefore, they were claiming exemption under Notification No. 67/95 but Revenue is of the view that as the appellant are clearing the final goods without payment of duty, therefore, for intermediate products, i.e. armoured cable, the appellant is required to pay Central Excise Duty. Consequently, it was alleged that the intermediate goods were removed clandestinely for captive consumption with an intent to evade payment of duty. Proceedings were initiated against the appellants which were adjudicated and resulted in passing of the impugned orders by confirming the demand of duty alongwith interest and penalty on main appellant.

3. Being aggrieved from the said order, appellants are before us.

4. Shri P. K. Mittal, ld. Counsel appeared on behalf of the appellant and Shri G. R. Singh, ld. AR for the Revenue. Ld. AR for the Revenue again and again reiterated the finding in the impugned order.

5. Both parties submitted that the issue is squarely covered by the decision of this Tribunal vide Final Order No. 55611 – 55613/2016 dated 28.11.2016 where the Tribunal has laid down the ratio in the case of ***Thermo Cables Ltd. [2013 (292) ELT 412 (Tri.)***]. The finding of the Tribunal is as under:

> "9. *As facts of the case are not disputed that the appellant is manufacturing final products and clearing the same on payment of duty in the open market and to Mega Power Projects without payment of duty. In*

that circumstances, the appellant is entitled for benefit of Notification No. 67/1995 ibid for intermediate product emerging during the course of manufacture of final product. Therefore, the impugned orders deserves no merits. Hence, the same are set aside".

6. By following our earlier decision (supra), we find no reason to sustain the impugned order. The same is hereby set-aside.

7. In the result, all the appeals filed by the appellants are allowed with consequential relief.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant