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

Date of hearing/decision: 14.02.2017

Service Tax Appeal No. 888 of 2009
(Arising out of order- in- appeal No. 581/BPL/2009 dated 08.09.2009 passed by the Commissioner (Appeals), Customs & Central Excise, Bhopal).

M/s HEG Limited Appellant

Vs.

CCE, Bhopal Respondent

Appearance:

Sh. Narendra Singhvi, Advocate for the appellant
Sh. Ranjan Khanna, AR for the Respondent

Coram:

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

Final Order No. 51788 / 2017

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

The present appeal is filed against order- in- appeal No. 581/BPL/2009 dated 08.09.2009 passed by the Commissioner (Appeals), Customs & Central Excise, Bhopal.

2. The brief facts of the case are that the appellant is a manufacturer of graphite electrodes and exports the same. The appellant filed a refund claim of Rs. 9,96,034/- in terms of Notification No. 40/2007-ST dated 17.09.2007 and No. 41/2007-ST dated 06.10.2007 for the quarter ending on 30.09.2008 to 28.11.2008. After issuing of show cause notice, a portion of the refund claim

amounting to Rs.2,50,260/- was rejected by the lower authorities. Being aggrieved, the present appeal is filed by the appellant.

3. With this background, we heard Shri Narendra Singhvi, ld. Advocate for the appellant and Sh. Ranjan Khanna, ld. AR for the Revenue.

4. After hearing both sides and on perusal of record, it appears that the lower authorities have declined a part of refund for the reason that "valid duty paid documents" were not produced before them.

5. During the course of argument, ld. Advocate for the appellant submits that valid duty paid documents are available. In fact, he tried to produce the same before the Court. He submits that the same documents were not produced by the ld. Counsel for the appellant before the lower authorities. However, the same can be produced before the lower authorities now.

6. In view of above, we set-aside the impugned order and remand the issue to the adjudicating authority to decide the same denovo but after providing an opportunity of hearing to the appellant. Additional evidence, if need be, may be admitted as per law.

7. In the result, appeal filed by the appellant is allowed by way of remand.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant