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

Date of hearing/decision: 15.03.2017

Excise Appeal No. 1390 of 2010
(Arising out of order-in-appeal No. 61(KKG)CE/JPR-II/2010 dated 04.03.2010 passed by the Commissioner, Central Excise (Appeals-II), Jaipur)

M/s BSL Limited Appellant

Vs.

CCE, Jaipur Respondent

Appearance:

Ms. Surbhi Sinha, Advocate for the assessee.
Sh. H. C. Saini, AR for the Revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Final Order No.52544/2017

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

The present appeal is filed against the order-in-appeal No. 61(KKG)CE/JPR-II/2010 dated 04.03.2010 passed by the Commissioner, Central Excise (Appeals-II), Jaipur. The period of dispute is 2002-03, 2003-04 & 2005-06.

2. The brief facts of the case are that during the period under consideration the appellants were engaged in the manufacture of textile items. The appellant have got the credit on Additional Excise Duty (AED) but the same was not used, as their final product does not attract any AED. So, the appellants claimed that it cannot be included in the assessable value of the final product which was denied by the department. Being aggrieved, the present appeal is filed by the appellant.

3. With this background, we heard Ms. Surbhi Sinha, ld. Advocate for the appellant and Sh. H. C. Saini, ld. AR for the Revenue.

4. After hearing both the sides and on perusal of record, it appears that the Tribunal in the case of ***Laxmi Suitings vs. CCE, Jaipur-II – 2016 (343) ELT 358 (Tri. Del.)*** observed that if appellant is a job worker, then the said benefit was not available. But in the case of ***M/s Suzuki Suitings vs. CCE, Jaipur-II Ex. Appeal No. 3169-3170/2007 decided on 10.03.2017,*** it was observed that when the appellant is a self manufacturer and not a job worker, then the benefit is available.

5. During the course of argument, it was argued that the appellant was also a job worker but after the manufacture of the product. But this fact is not emerging from the impugned order. The impugned order is silent on this issue. When it is so, then we set-aside the impugned order and remand the matter to the adjudicating authority to examine whether the appellant was a job worker or self manufacturer and decide the issue in the light of above discussion, but by providing an opportunity of hearing to the assessee. Additional evidence, if necessary, may be admitted as per law.

6. In the result, the appeal is allowed by way of remand.

(Dictated and pronounced in the open Court).

(Ashok K. Arya)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant