**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.**

Date of Hearing/Decision: 7.4.2017

Appeal No. E/56645/2013-DB

(Arising out of Order-in-Appeal No. 134/CE/D-II/12 dated 1.1.2013 passed by the Commissioner, Central Excise (Appeals), New Delhi)

M/s G.P. Lighting Ltd. Appellant

Vs.

CCE, New Delhi Respondent

Appearance

Shri V.R. Sethi, Advocate	-	for the appellant
Shri H.C. Saini, D.R.	-	for the respondent

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

Final Order No. 52838/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed by the appellant against the Order-in-Appeal No. 134/2012 dated 1.1.2013.

2. The brief facts of the case are that during the period under consideration (2010-2011), the appellant was engaged in the manufacturing of electronic switches, sockets boxes etc. falling under Chapter Heading 8504, 8536 and 8544 of the Central Excise Tariff Act, 1985 under the brand name 'Gourav' and 'Sourabh' but without getting registered with the Central Excise department and without payment of duty, they have removed the goods clandestinely. On

25.3.2011, search was conducted and goods were seized. The duty demand was made for Rs.34,75,242/-, along with the penalty and redemption fines. Being aggrieved, the appellant has filed the present appeal.

3. With this background, we have heard Shri V.R. Sethi and Shri H.C. Saini, ld. Counsels for the parties and perused the record.

4. The ld. Counsel for the appellant agreed to pay the duty along with education and higher educational cess. Thus, the duty amount involved is not in question.

5. The ld. Counsel further submits that penalty of Rs.34,75,242/- has been levied under Rule 25 of the Central Excise Rules, 2002 which is equal to 100% of the duty demand. He submits that the duty amount was paid even before issue of Show Cause Notice suo moto and voluntarily. So, the benefit of Section 11AC may be extended where it is mentioned that penalty will be levied @ 25%.

6. The ld. DR has confirmed that the duty amount was deposited even before issuing the Show Cause Notice. When it is so, then we modify the impugned order and reduce the penalty to 25% of the

duty amount as per provisions of Section 11AC of the Central Excise Act, 1944. The assessee will get the partial relief.

7. The second grievance of the appellant is that the goods were seized and redemption fine of Rs. 20 lakhs was imposed but the same was reduced by the Commissioner (Appeals) to Rs. 19 lakhs. He submits that the goods are still in the supardari/custody of the department but depreciated. He submits that depreciation has occurred so the value has gone down, being the old goods. So, he made a request that the same may kindly be reduced/waived.

7. After considering the rival submissions, we modify the impugned order and reduced the redemption fine to Rs.15 lakhs. (Fifteen lacs) only. The appellant will get the partial relief. The impugned order is modified accordingly.

8. In the result, appeal filed by the appellant is partly allowed.

(Dictated & pronounced in the open court)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

RM