CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 17.04.2017

Appeal No. E/730/2011-EX[DB]

[Arising out of the Order-in-Appeal No. 540(DKV)CE/JPR-I/2010 dated 21.12.2010, passed by the Commissioner of Central Excise, Jaipur]

M/s. DCM Shriram Ltd. … Appellant

Vs.

C.C.E. Jaipur ... Respondent

Appearance:

Present Shri Rahul Tangri, Advocate for the appellant
Present Shri Dharam Singh, DR for the respondent

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

FINAL ORDER No. 53010/2017

Per Justice (Dr.) Satish Chandra:

The present appeal is filed against the Order-in-Appeal No. 540/2010 dated 21.12.2010. The period of dispute is May 2007 to September 2008.

2. The brief facts of the case are that during the period of consideration appellant was engaged in the manufacture of cement falling under chapter heading 252329 and was selling to various buyers in 50 kgs bags. It is claimed that same was supplied to the companies which were engaged in the production of ready mix concrete. Department was of the view that appellant during the period of consideration has availed this exemption in respect of clearances to some customers, who are institutional / industrial consumers. So the benefit was denied. Being aggrieved the appellant has filed this appeal.

3. With this background we have heard Shri Rahul Tangri, Advocate for the appellant and Shri Dharam Singh, DR for the respondent.

4. After hearing both the parties and on perusal of the record, it appears that the appellant was engaged during the period in consideration in manufacturing cement in mini plant. The plea of the Counsel of the appellant is that the cement in question, in respect of which duty has been demanded, has been sold to M/s. JKM Infrastructure, M/s. YFC Project Pvt. Ltd. and M/s. HCC RMX, all of which are industrial consumers. It is the submission of the Ld. Counsel that the necessary certificate from these buyers were produced before the Commissioner (A). But he has not considered the said documents and illegally raised the demand of the duty for Rs. 5,43,381/-.

5. On the other hand, Ld. Counsel for the Department submits that if the certificate is produced, the issue will be examined again.

6. When, it is so, we set aside the impugned order and remand the matter to adjudicating authority for de novo decision after giving reasonable opportunity to the appellant. The Ld. Counsel for the appellant have assured full co-operation. Fresh evidence may be obtained, if need be, 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)
Technical Member

(Justice Dr. Satish Chandra)
President

Bhanu