CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 54614 of 2014

(Arising out of Order-in-Appeal No. 130-CE/2013 dated 11.04.2014 passed by the Commissioner of Central Excise (Appeals), Delhi-I)

DATE OF HEARING : 16.06.2017
DATE OF DECISION : 16.06.2017

M/s Horizon Industrial Products (P) Ltd. …. Appellants
(Rep by Sh. Rajesh Kumar, Adv.)

VERSUS

CCE, Delhi-I …. Respondent
(Rep. by Sh. S. Bansal, DR)

CORAM : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 54053/2017

PER B. RAVICHANDRAN :

The present appeal is filed by the Appellants against the impugned Order-in-Appeal No. 130-CE/2013 dated 11.04.2014 passed by the Commissioner of Central Excise (Appeals), Delhi-I.

2. The Appellants are engaged in the manufacture of motor vehicle parts and transferring the same, on inter-unit transfer, to their own unit situated in Manesar. The dispute in the present appeal relates to correct value to be adopted for discharging Central Excise Duty on such inter-unit transfer made by the Appellants. The Revenue entertained the

view that the Appellants did not follow the correct calculation in terms of Rule 8 of Central Excise Valuation Rules, 2000 and short paid the duty. Proceedings initiated resulted in the confirmation of the duty amounting to Rs. 17,26,236/- along with equal amount of penalty. On appeal, the same was affirmed by the impugned order.

3. The learned counsel for the Appellants submitted that they have been discharging duty correctly by adopting cost construction method. The Revenue neither called for the details nor verified the claim of the Appellants before proceeding with confirmation of the short levy of duty. The learned counsel for the Appellants submitted that, during the relevant period, the applicable provisions are that they should discharge duty on 110% of cost of production of the impugned goods. There is no sale of such goods.

4. We have heard both sides and perused the appeal record.

5. Admittedly, neither the Revenue nor the Appellants has verified and substantiated the correctness of the cost construction method in terms of Rule 8. We have perused the show cuase notice also. The allegation is that, the Appellants paid less duty by not considering 110% of the cost. The differential demand was made by loading 10% on the value shown in the challan for inter-unit transfer. We find that the provisions of Rule 8 are correctly applicable to the present transaction, as admitted by both the sides. However, we do not find any costing done as per the CAS 4 standards, which are made applicable for discharging the duty liability. Accordingly, we set aside the impugned order and remand the matter to the original authority. The cost construction shall be provided by the Appellants in terms of CAS 4 standards which will be

verified by the jurisdictional Officer to determine the correct duty liability including short payment, if any, which shall be discharged by the Appellants.

6. With these observations, the appeal is allowed by way of remand.

(Dictated & pronounced in the open court)

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

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