IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Excise Appeal No. 54112 of 2014

[Arising out of Order-in-Appeal No. 16/2014 dated 16.5.2014 passed by the Commissioner of Central Excise and Service Tax (Appeals), Delhi II]

M/s. Navneet Bath Systems **Appellant**

Vs.

Commissioner of Central Excise **Respondent**
New Delhi

Appearance:

Shri M S Bhatia, Advocate for the Appellants
Shri H C Saini, DR for the Respondent

CORAM:

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

Date of Hearing/ Decision: 07.06.2017

FINAL ORDER NO. 54346/2017

Per: Justice (Dr.) Satish Chandra:

The present appeal is filed against Order in Appeal 16/2014 dated 16.5.2014.

2. The brief facts of the case are that the appellant was engaged in manufacturing of various types of bathroom showers of 'speed' brand falling under Chapter Tariff Heading 3922 of the Central Excise Tariff Act, 1985. The appellant was not registered with the Central Excise department. The factory premises was searched and goods were seized and duty demand was raised. Penalty was also imposed along with redemption fine.

3. The appellant has already paid the duty along with interest and penalty. Only dispute in the present case pertains to redemption fine of Rs.2.50 lakh.

4. During the course of argument Shri M S Bhatia, learned counsel submits that department has taken the value of goods on the basis of MRP mentioned in the packing box, transaction value was not taken. He submits that the value taken by the department was on the higher side but the appellant preferred to buy peace. He made a request that redemption fine which is on the higher side, may kindly be reduced. For the purpose, he relied on the decision of the Tribunal in the case of ***CC, Chennai vs. Omex International [2007 (216) ELT 144 (Tri-Chennai)]*** which pertains to the customs duty. He also relied on the ratio laid down by Tribunal at Chennai in the case of ***Shilpa Medicare Ltd. vs. CC, Chennai [2016 (342) ELT 604 (Tri-Chennai)].***

5. On the other hand, Shri H C Saini, learned DR justified the impugned order. He submits that appellant has already accepted the duty imposed by the department and paid the same along with penalty and interest.

6. By considering the facts and circumstances of the case, it is undisputed fact that department has taken the value of seized goods on the basis of MRP. No profit margin was taken into account and no discount was given. In these circumstances, we are of the view that Redemption fine is on the higher side. By keeping the Doctrine of equity, justification and good conscience, we modify the impugned order and reduce the Redemption fine to Rs. One lakh which will meet the ends of justice. However, the payment of duty with interest and penalty are upheld as not contested. Thus, the appeal filed by the appellant is partially allowed.

(Dictated and pronounced in the open Court)

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

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