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

Excise Appeal No. 50471/2014

[Arising out of Order-in-Original No. 08/2013-14 dated 30.9.2013 passed by the Commissioner of Central Excise, Delhi II]

M/s. Indraprastha Gas Ltd. **Appellant,**

Vs.

Commissioner of Central Excise **Respondent**
Delhi

Appearance:

Shri Amit Jain, Advocate for the Appellants
Shri H C Saini, AR for the Respondent

CORAM:

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

Date of Hearing/ Decision: 30.6.2017

FINAL ORDER NO.54654/2017

Per: Justice (Dr.) Satish Chandra:

The present appeal is filed against the order in original No. 08/2013-14 dated 30.9.2013. The period of dispute is 24.12.2008 to 31.08.2010.

2. The brief facts of the case are that the appellant is a Joint venture of two PSUs, namely, M/s. Gas Authority of India Ltd. and M/s. Bharat

Petroleum Corporation Ltd. The Government of NCT, Delhi is a party to this joint venture. The appellant – assessee is engaged in distribution of CNG falling under Tariff item 27112100 of the First schedule to the Central Excise Tariff Act, 1985. The CNG is sold by the appellant through its retail outlets and also from various petrol pumps and in the case of Delhi Transport Corporation (DTC) and Uttar Pradesh State Road Transport Corporation (UPSRTC), the appellant has established "Mother Stations" in the premises of such corporations, where minimum facilites have been provided to the appellant for space, water etc. For providing these facilities, the appellant has allowed discount of Rs. 1.20 per Kg. to its bulk purchaser/ recipient. The department is of the view that discount is given only towards the cost of the facility and so they demanded the central excise duty. Being aggrieved, the appellant has filed the appeals before Tribunal.

3. With this background, we have heard Shri Amit Jain, learned Counsel and Shri H. C. Saini, learned DR for the Revenue.

4. From the record, it appears that earlier the Tribunal has remanded the matter back to Commissioner by observing that it is a matter pertinent to the assessment. On remand, the Commissioner has passed the impugned order.

5. Fairly admitted by the learned Counsel that on 30.9.2009, the appellant has submitted the following documents in the department but

the same were not available before the Commissioner at the time of passing of the impugned order:-

1. Price structure to different entities.
2. Copy of agreement with DTC and UPSRTC.
3. Government of India Circular dated 4.5.2001

6. Both the parties have agreed that these documents are vital in nature to resolve the dispute. Hence, in the interest of justice, we set aside the impugned order and remand the matter to the Commissioner to decide the matter de novo. The appellant is at liberty to submit the above mentioned documents along with other evidence, if need be, before the Commissioner. Proper opportunity of hearing be given to the appellant as per law.

7. In the result, the appeal filed by the appellant is allowed by way of remand. Misc application is also disposed of.

(Dictated and pronounced in the open Court)

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

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