

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-II

Date of hearing/decision: 20.07.2017

Appeal No. E/2343/2011-SM

[Arising out of the Order-in-Appeal No.170 (DKV) CE/JPR-I/2011 dated 25/05/2011, passed by the Commissioner Customs & Central Excise, Jaipur-I]

KEC International Ltd. ... Appellant

Vs.

CCE Jaipur-I ... Respondent

Appearance:

Present Shri Alok Kothari, Advocate for the appellant

Present Ms G.R. Singh, DR for the respondent

Coram: Hon'ble Mr.Ashok K. Arya, (Technical Member)

FINAL ORDER No. 55397/2017

Per Ashok K. Arya :

1. The appellant *M/s KEC International Ltd.* is in appeal against Order in Appeal No. 170/2011 dated 25/05/2011 whereunder the demand for the liability of interest on price variations for the period of December 2009 to September 2017, which has not yet been confirmed, has been adjusted (recovered) against the rebate sanctioned to the appellant.
2. Both sides represented by Ld. Advocate, Shri Alok Kothari for the appellant and Ld. DR, Shri GR Singh for the Revenue have been heard.
3. The Appellant's main plea is that no independent show cause notice (SCN) for the demand of the interest on price variation has been issued; and without issue of any show cause notice the demand has been recovered by way of adjustment against the rebate sanctioned to them.
4. The Ld. DR for the Revenue reiterates the impugned order and further pleads that there is no need of issue of separate show cause notice for

the demand of interest on price variation and in support he cites Hon'ble Bombay High Court decision in case of *CCE & C Aurangabad V/s Padmashri V.V. Patil S.S.K. Ltd.* 2007 (215) ELT 23 (Bom.).

5. After having carefully considered the facts of the case and submissions of both the sides it appears that the matter is covered by the Tribunal's decision in the appellant's own case of *M/s KEC International Ltd V/s C.C.E. & S.T.* in appeal no. E/53270/2014- EX [SM] vide Final Order No. 54356/2017 dated 22/06/2017 where the matter was remanded to the Original Adjudicating Authority to decide the issue after observing the principle of nature of justice. Further, it appears that Hon'ble Bombay High Court decision (*supra*) is not applicable to the present facts.

5.1. In the light of above discussion and following the Tribunal's order in appellant's own case (*supra*), the impugned order is set aside and the matter is remanded to the Original Adjudicating Authority, who shall decide the matter afresh after observing the principles of natural justice.

6. In the result the appeal is allowed by way of remand.

[Order dictated and pronounced in the open court]

(Ashok K. Arya)
Member (Technical)

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