CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 1615 of 2011

(Arising out of Order-in-Appeal No. 76(CB)CE/JPR-II/2011 dated 29.03.2011 and passed by the Commissioner of Central Excise (Appeals), Jaipur)

DATE OF HEARING : 24.07.2017
DATE OF DECISION : 24.07.2017

M/s Sangam (India) Ltd. …. Appellants
(Rep by Sh. Hemant Bajaj, Adv.)

VERSUS

CCE, Jaipur-II …. Respondent
(Rep. by Sh. M.R. Sharma, DR)

CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)

FINAL ORDER NO. 55569/2107

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the assessee-Appellants against the Order-in-Appeal No.76(CB)CE/JPR-II/2011 dated 29.03.2011 passed by the Commissioner of Central Excise (Appeals), Jaipur. The period in dispute is April 2006 to March 2007.

2. The brief facts of the case are that, during the period under consideration, the assessee-Appellants were engaged in the

manufacture of processed man made fabrics falling under Chapter 55 of the Schedule to the Central Excise Tariff Act, 1985. They were manufacturing “processed man made fabrics” from the provisionally assessed grey fabrics received from M/s Sangam Suitings, Bhilwara, who in turn manufactured grey fabrics from the provisionally assessed yarn received from M/s Sangam Spinners, Bhilwara, therefore, the assessable value of processed man made fabrics manufactured by the assessee-Appellants could not be determined until the finalization of provisional assessment of yarn of M/s Sangam Spinners, Bhilwara and grey fabrics of M/s Sangam Suitings, Bhilwara. Since the actual cost of production of “processed man made fabrics” could only be ascertained after finalization of provisional assessment of yarn of M/s Sangam Spinners, Bhilwara and grey fabrics of M/s Sangam Suitings, Bhilwara, the assessee-Appellants were allowed to pay duty on provisional assessment basis vide order C.No. V(55)17/Prov/7/2002/536 dated 26.02.2003 by the then Assistant Commissioner, Central Excise, Division, Bhilwara. The provisional assessment was required to be finalized as per Rule 8 of the Central Excise (Determination of Price of Excisable Goods) Valuation Rules, 2002 read with the CBEC Circular No. 692/8/2003-CX dated 13.02.2003. The Department has not provided the relief, so the assessee-Appellants have filed the present appeal.

3. With this background, we have heard Shri Hemant Bajaj, learned counsel for the assessee-Appellants and Shri M.R. Sharma, learned DR for the Revenue.

4. After hearing both sides and on perusal of material available on record, it appears that an identical issue in the assessee-Appellants' own case has come up before this Tribunal and the Tribunal vide Final Order No. 606/2011-EX dated 24.06.2011 by flowing the ratio laid down by the Larger Bench in the case of **Eicher Motors Ltd. vs CCE, Indore,** 2008 (228) ELT 43 as well as **Excel Rubber Ltd. vs CCE, Hyderabad,** 2011-TIOL-536-CESTAT-DEL-LB, decided the appeal against the assessee-Appellants.

5. By following the ratio laid down by the Tribunal in the earlier cases (supra), we find no reason to interfere with the impugned order and the same is hereby sustained.

6. In the result, the appeal filed by the assessee-Appellants is dismissed.

(Dictated & pronounced in the open court)

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(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

Golay