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

COURT-I

Date of hearing/Decision: 25.07.2017

Appeal No. E/56075/2013 EX [DB]
[Arising out of the Order in Appeal No. 05(RDN)CE/JPR-II/2013 dated 17/01/2013 Passed by The Commissioner of Customs, Office of Commissioner, Customs & Central Excise, Jaipur]

M/s Vinayak Marmo Pvt.Ltd … Appellant

Vs.

CCE Jaipur-II … Respondent

Appearance:

Present Shri Kr. Vikram, for the appellant
Present Shri H.C. Saini, DR for the respondent

Coram: Hon'ble Justice Dr. Satish Chandra, President
Hon'ble Mr.Ashok K.Arya, Member (Technical)

FINAL ORDER No. 55577/2017

Per:Justice Dr. Satish Chandra

1. The present appeal is filed against Order in Appeal No. 05/2013 dated 09/01/2013. During the period under consideration (2006-2007), the appellant was engaged in the manufacture of marble slabs and was enjoying SSI exemption as per the Notification No. 8/2003 dated 01/03/2003. The appellant was also doing the job work. The dispute in the present appeal is pertaining to the Valuation Rule under Rule 10-A of the Central Excise Rules, 2000. The Commissioner (Appeals) in its impugned order has observed that-

i. The department made all out efforts to collect the actual price of the goods processed by the appellant and when it became difficult, the department resorted to the best judgment for the valuation of the said goods and even the valuation taken by the department also seems to be on the lower side as they have taken only average cost of the material in the absence of the record being made available to the department in spite of the repeated requests.

2. During the course of the arguments, Ld Counsel, Shri Kr. Vikram submits that all the vouchers are available, if an opportunity is provided, same can be produced before the Adjudicating Authority. For the purpose, he relied on the ratio laid down by the ***Commissioner of Central Excise, Jaipur V/s Modern Woollens Ltd. 2005 (181) E.L.T. 200 (S.C.)*** where the case was remanded to determine the issue of comparability on the basis of evidence already on record.

3. By considering the rival submissions and on perusal of record, we set aside the impugned order and remand the matter to the Adjudicating Authority to decide the issue a fresh in the light of the above discussion but by providing an opportunity of personal hearing to the appellant. Fresh evidence may be admitted as per law, if need be.

4. In the result, the appeal filed by the appellant is allowed by way of remand.

[Order Dictated and Pronounced in the open court]

(Ashok K. Arya)
Member (Technical)

(Justice Dr. Satish Chandra)
President

RS