CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Date of hearing/decision : 26.07.2017

Excise Appeal No. 55921 of 2013
(Arising out of order-in-appeal No. 201(RDN)CE/JPR-1/2012 dated 10.12.2012 passed by the Commissioner (Appeals-I) Central Excise & Customs, Jaipur)

M/s Shree Krishna Rolling Mills (Jaipur) Ltd. Appellant
(Rep. by Sh. S. Sunil, Advocate)

Vs.

CCE, Jaipur Respondent
(Rep. by Sh. R. K. Mishra, AR)

CORAM **:**

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

FINAL ORDER NO. 55603 /2017

PER Justice (Dr.) Satish Chandra:

The present appeal has been filed against the order-in-appeal No. 201(RDN)CE/JPR-1/2012 dated 10.12.2012 passed by the Commissioner (Appeals-I) Central Excise & Customs, Jaipur.

2. Brief facts of the case are that during the period under consideration (January 2010 to August 2010), the appellant were engaged in the manufacture of M. T. Shapes & sections and supplied the same to M/s Kalyani Hayes Lemmerz Limited. Originally the prices were determined @ Rs. 44,725/-. But, finally the prices were reduced and goods were supplied @ Rs.42,925/-. PMT. The duty was paid on higher price so the

appellant made a claim for refund but the same was denied by the department. Being aggrieved, the present appeal has been filed by the appellant.

3. With this background, we heard Sh. S. Sunil, ld. Advocate for the appellant. He submits that there was a variation clause between the parties. So, claim was rightly made for refund. But, he was unable to produce any document or evidence to this effect. He also submits that the duty was paid on higher rate @ Rs. 44,725/- PMT but goods were sold at lower rate @ Rs. 42,925/- PMT.

4. On the other hand, Shri R. K. Mishra, ld. AR for the Revenue submits that this is a case of unjust enrichment as the burden was passed on to the customer.

5. By considering the totality of facts and circumstances of the case, we are of the view that in the absence of any document pertaining to the variation clause no relief can be given especially when the Commissioner (Appeals) in its order mentioned that there was no variation clause pertaining to the price. In these circumstances, we find no reason to interfere with the impugned order and the same is hereby sustained.

6. In the result, appeal filed by the appellant is dismissed.

(Dictated & pronounced in the open court)

(AHSOK K. ARYA) **(JUSTICE Dr. SATISH CHANDRA)**
MEMBER (TECHNICAL) **PRESIDENT**

Pant