IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 1.8.2017

Appeal No. E/1530/2011-SM

(Arising out of Order-in-Appeal No. 78-81/BPL/2011 dated 24.3.2011 passed by the Commissioner, Central Excise, Bhopal)

CCE, Bhopal — Appellant

Vs.

M/s RPRG Transmission Ltd. — Respondent

Appearance

Shri Ubhav Sengraj, A.R. - for the appellant

Shri Dhruv Tiwari, Advocate - for the respondent

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

Final Order No. 55783/2017

Per Ashok K. Arya :

The Revenue is in appeal against the Order-in-Appeal No. 78-81/2011 dated 24.3.2011, where the proceedings were initiated by Show Cause Notice (SCN) dated 14.8.2002. The proceedings against the respondent M/s RPRG have been set aside mainly on the ground that the Show Cause Notice is evidently time-barred.

2. Both sides represented by Shri Ubhav Sengraj, ld. DR for the Revenue and Shri Dhruv Tiwari, ld. Advocate for the respondent have been heard.

3. The impugned order has observed that on the basis of very same documents of the same period, several Show Cause Notices, other than the present one, were also issued by the Revenue. The impugned order gives an example that on the basis of same documents the Show Cause Notice dated 2.5.2001 was issued by the jurisdictional Assistant Commissioner for denying Modvat credit saying that the final product manufactured by the respondents was non-excisable. The impugned order further states that all the relevant input documents based on which the Show Cause Notice for the present proceedings was issued, were scrutinised by the Revenue for issuing other Show Cause Notices. The impugned order, therefore, held that for the period involved in the present proceedings i.e. from October, 1997 to May, 2000 for which the Show Cause Notice was issued on 14.8.2002, is evidently time barred.

3.1 The ld. DR for Revenue pleads that based on the same documents, earlier proceedings for which Show Cause Notice was issued was for under valuation, therefore, the present SCN is a separate proceeding and Revenue can rightly issue Show Cause Notice. On the other hand, ld. Advocate for the respondent pleads that the Show Cause Notice for the present proceedings is time-barred as mentioned in the impugned order.

4. From the facts on record and the submissions of both the sides, it is clear that department has crossed the time limit of one year for issue of Show Cause Notice; when time limit of one year starts from the date when relevant documents came to the notice of the Revenue. When there is no suppression on the part of the respondent, the present proceedings have rightly been held by the impugned order as time-barred. Consequently, the impugned order is sustained and appeal dismissed as without merits.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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