CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing: 06.09.2017

Appeal No. E/51199/2016-EX[DB]

[Arising out of the Order-in-Appeal No. 03/PR/Commr/IND/CEX/2016 dated 22.01.2016, passed by the Commissioner of Central Excise, Jaipur]

M/s. Avantika Gas Ltd. … Appellant

Vs.

C.C.E. & S.T. Indore ... Respondent

Appearance:

Present Shri Rahul Tangri, Advocate for the appellant
Present Shri M.R. Sharma, DR for the respondent

Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Technical Member

FINAL ORDER No. 56532/2017

Per Justice (Dr.) Satish Chandra:

The present appeal has been filed against the order in Appeal No. 03/2016 dated 22.01.2016.

2. The brief facts of the case are that during the period March 2013 to December 2013 the appellant was engaged in supply of CNG to various outlets. Prior to the period under consideration, the appellant was selling the goods without including the charge of freight in the assessable value. During the period under consideration the Commissioner (A) vide his impugned order has confirmed the demand for the period March to December 2013 by stating that the freight charges were not included in the

assessable value. So, the duty was demanded. Being aggrieved, appellant has filed the present appeal.

3. With the above background, we have heard Shri Rahul Tangri, Advocate for the appellant and Shri M.R. Sharma, DR for the respondent.

4. After hearing both the sides and on perusal of record, it appears that the appellant was supplying the CNG to the daughter stations. It is the claim of the Ld. Counsel that prior vouchers were given where it was stated that other freight charges were included in the sale price of the gas. So, there is no demand of duty. During the course of argument the Ld. Advocate also produced some documents to that effect.

5. The Ld. DR said that the said documents cannot be checked at this stage.

6. When it is so, then we set aside the impugned order and remand the matter back to the adjudicating authority to examine the documents and decide the issue de novo but by providing reasonable opportunity to the appellant. Fresh evidence, if need be may be admitted as per law.

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

[Dictated and Pronounced in the open court]

(V. Padmanabhan)
Technical Member

(Justice Dr. Satish Chandra)
President

Bhanu