CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 11.09.2017

Excise Appeal No. 1710 of 2011
(Arising out of order-in-appeal No. 84/CB/CE/JPR.II/2011 dated 08.04.2011 passed by the Commissioner of Customs & Central Excise, Jaipur).

M/s Shree Rajasthan Syntex Limited Appellant

Vs.

CCE, Jaipur-II Respondent

Appearance:

Sh. Hemant Bajaj, Advocate for the appellant
Sh H. C. Saini, AR for the respondent

Coram:

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

Final Order No. 56546/2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeal has been filed against the order-in-appeal No. 84/CB/CE/JPR.II/2011 dated 08.04.2011 passed by the Commissioner of Customs & Central Excise, Jaipur. The period of dispute is Sept. 1998 to June 1999.

2. Brief facts of the case are that during the period under consideration, the appellant was engaged in the manufacture of yarn classifiable under Chapter 55 of the First Schedule to the Central Excise Tariff Act, 1985. During the period (Sept. 1998 to June 1999) they were selling a part of their

final products at the factory gate. For such goods they were collecting a percentage of the sale price of the goods as freight and insurance. Remaining final products were cleared from their factory to their depot on payment of duty and selling the goods from depot. While clearing the goods from factory they were charging the same percentage of price as freight and insurance as was being charged on sales made at the factory gate. The present dispute is pertaining to the correct assessable value of the goods. The claim of the appellant was rejected by the department. Being aggrieved, the present appeal is filed by the appellant.

2. With this background, we heard Sh. Hemant Bajaj, ld. Advocate for the appellant and Sh. M. R. Sharma, ld. AR for the Revenue.

3. After hearing both the parties and on perusal of record, it appears from the impugned order that:

> "*On going through the above section I find that deduction in respect of cost of transportation is admissible but I find that the appellant have not produced any evidence which shows the cost of transportation from depots to the place of delivery at the customer premises. In the grounds of appeal the appellant submitted certain copies of depot sale invoices of Delhi depot only and not in respect of other depots. On going through the Delhi depot invoices, in which freight and insurance charges have been realised from the customers. I find that the appellant have not submitted any document showing the cost of transportation like transport bilty/ voucher/challan/slip/vehicle logbook or any other document, with the respective invoices*".

4. During the course of argument, ld. Counsel for the appellant submits that the necessary information can be supplied to the adjudicating authority if an opportunity may be given. When it is so, then we set aside the impugned order and remand the matter to the adjudicating authority to decide the issue

denovo, but by providing an opportunity of hearing to the appellant. Fresh evidence, if necessary, may be admitted as per law.

5. In the result, appeal is allowed by way of remand.

(Dictated and pronounced in the open Court).

(V. Padmanabhan) Justice (Dr.) Satish Chandra)
Member (Technical) President

Pant