IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing:26.09.2017
Date of Decision:04.10.2017

Excise Appeal No.55908/2014-EX(DB)

[Arising out of Order-in-Original No.17/COMMISSIONER/2014-15 dated 28.08.2014 passed by the Commissioner of Central Excise and Service Tax,LTU, New Delhi]

M/s.Havells India Ltd. Appellants

Vs.

CCE (LTU), Delhi Respondent

Appearance:
Rep. by Shri J.P. Kaushik,Advocate for the appellant.
Rep. by Shri H.C. Saini, DR for the respondent.

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

Final Order No.56888/2017

Per B. Ravichandran:

The appeal is against order dated 28.08.2014 of Commissioner, LTU, New Delhi. The appellants are engaged in the manufacture of MCBs, RCCBs and distribution boards liable to central excise duty. The dispute in the present appeal relates to the eligibility of the appellant for claiming deduction of cash discount and annual turnover discount from the transaction value at the time of clearance of goods from their factory to various customers. The period of dispute is from April, 2007 to March, 2010. The Revenue held a view that the appellant did not pass on the discounts to the buyers and they are not eligible for claiming such deduction in the absence of categorical supporting evidence. The Original Authority by the impugned order confirmed a differential duty demand of Rs.63,58,992/- and also imposed penalty of equivalent amount under Rule 25 of Central Excise Rules, 2002 read with Section 11 AC of the Central Excise Act, 1944.

2. Ld. Counsel for the appellant submitted that similar dispute in respect of the appellant's own case came up before the Tribunal for a decision. He referred to the final orders No.52619-52630/2016 and final order no.53066 of 2016 dated 16.08.2016. He further submitted that the jurisdictional authorities vide their final assessment order dated 27.4.2017 allowed such discounts while arriving at the final duty liability of the appellant. In fact, the jurisdictional Original Authority has quoted the final order dated 16.08.2016 of the Tribunal, which was accepted by the Department. Accordingly, the ld. Counsels submitted that the present impugned order is also liable to be set aside in line with the ratio of the decision of the Tribunal in the appellant's own case as above.

3. Ld.AR reiterated the findings of the impugned order.

4. We have heard both the sides and perused the appeal records.

5. We note that in the Final Orders dated 29.06.2016 and 16.08.2016, the Tribunal examined similar disputes in the appellant's own case and decided that the discounts are to be allowed on the normal transaction value from the place of removal. The said decisions have also been followed by the jurisdictional

authorities for the subsequent period as seen from the final assessment order dated 27.04.2017. As such, following the ratio of the earlier decisions cited above, we find that the impugned order is without merit. Accordingly, the same is set aside. The appeal is allowed.

[Order pronounced on 4.10.2017.]

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

Ckp.