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

Date of Hearing/Decision: 28.09.2017

Appeal No. E/50865/2017-SM

(Arising out of Order-in-Appeal No. BHO/EXCUS/002/APP/405/16-17 dated 13.02.2017 passed by the Commissioner (Appeals) Customs & Central Excise, Raipur)

Bhasin Automobiles — Appellant

Vs.

CCE & ST Raipur — Respondent

Appearance

Shri Kr. Vikram, Advocate - for the appellant

Shri U. Sengraj, DR - for the respondent

CORAM: **Hon'ble Mr. Ashok Jindal, Member (Judicial)**

Final Order No. 57005/2017

Per Ashok Jindal :

1. The appellant is in appeal against the impugned order wherein the goods were held liable for confiscation and the same were allowed to be redeemed on payment of redemption fine.

2. The brief facts of the case are that the appellant purchased auto parts from *M/s Rason Auto Products,* Raipur who was engaged in packing/repacking and affixing MRP on the automobile parts. The investigation was conducted at the end of *M/s Rason Auto Products* and it was found that they were not paying duty on the goods and clearing the same to the appellant. Thereafter the investigation was conducted

at the end of the appellant. It was found that the appellant has purchased certain goods from *M/s Rason Auto Products* and paid VAT on the invoices issued by *Rason Auto Products*. The goods with the brand name "RSN" *Rason Auto Products* were seized and held that same are liable for confiscation. Accordingly, the proceedings were initiated against the appellant for confiscation of the impugned goods and to impose redemption fine and penalty on the appellant. In adjudication the goods were allowed to be redeemed on payment of redemption fine of Rs. 62.500/-. Aggrieved from the said order, the appellant is before me.

3. Heard the parties and considered the submissions.

4. I find that appellant has purchased goods in question against proper invoices. In that circumstances if duty has not been paid by the manufacturer/ supplier of the goods, the same cannot be held liable for confiscation in the hand of the appellant in the light of the decision of this Tribunal in the case of G.D. Electronics Vs CCE 2005 (187) ELT 63, Delhi. Wherein this Tribunal has observed as under:-

> I find that the statement of Shri J.P. Aggarwal, Proprietor of the appellants clearly stated that he is not aware about the excisability of the branded goods purchased by him. In these circumstances, it cannot be said that he was knowing that the goods were cleared without payment of duty and the goods were liable for confiscation. In these circumstances, the confiscation of the goods and imposition of penalty on the appellants is not justifiable. I, therefore, set aside the order of the Commissioner (Appeals) imposing penalty and confiscating the goods seized from the appellants and allow the appeal.

5. As the appellant is not manufacturer of the impugned goods in that circumstances goods cannot be liable for confiscation in the hand of the appellant, therefore, redemption and penalty are not imposable on the appellant. In these terms, the impugned order is set aside and appeal is allowed with consequential relief, if any.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

Rekha