IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –III

Excise Appeal No. 1837-1838 & 1904/2009-EX [SM]

[Arising out of Order-in-Appeal No. 65-67/09-CE/DLH/2009 dated 30.03.2009 passed by the Commissioner (Appeals) Delhi-II Central Excise, New Delhi]

Maurya Printers Pvt. Ltd. & Ors. …Appellant

Vs.

C.C.E., Delhi-II … Respondent

Present for the Appellant : Mr. Abhas Mishra, Advocate
Present for the Respondent: Mr. K. Poddar, A.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

Date of Hearing / Decision: 22.06.2017

FINAL ORDER NO. __57244-57246/2017__

PER: S.K. MOHANTY

These appeals are directed against the impugned order dated 13.04.2009 passed by the Commissioner (Appeals), Central Excise and Customs, New Delhi.

2. Brief facts of the case are that M/s. Maurya Printers Pvt Ltd. is registered with Central Excise Department and engaged in printing and manufacture of Corrugated boxes falling under Chapter 48 of the Central Excise Tariff Act, 1985. Acting upon an intelligence that the said company had been clearing the manufactured goods on the invoices of the dummy unit, the Central Excise officers of Anti-

Evasion branch of Delhi-II Commissionerate conducted simultaneous searches at the various manufacture premises of the said company and also the premises of M/s. Ratna Packers. On the basis of investigation report, the Department initiated the Show Cause Proceedings against various persons seeking confirmation of the duty demand and for imposition of penalties. The SCN dated 13.09.2006 was adjudicated vide order dated 27.12.2007, wherein Central Excise duty demand of Rs. 7,13,998/- was confirmed on M/s. Maurya Printers Pvt Ltd. Besides, equal amount of penalty was also imposed on it under Section 11AC of the Central Excise Act, 1944. Further personal penalties were imposed on Shri Raghav Ram Maurya, Director of M/s. Maurya Printers Pvt. Ltd. and Rs. 1 lac. on Shri Ram Karan proprietor of M/s. Ratna Packers. On appeal, the ld. Commissioner (Appeals) vide the impugned order dated 13.04.2009 has upheld the adjudged demand against the above appellants.

3. The ld. Advocate appearing for the appellant submitted that M/s. Ratna Packers is not a dummy unit of M/s. Maurya Printers and thus, the value of clearance cannot be clubbed. He further submitted that Ratna Packers has supplied the raw materials and made payment for Job charges against due invoices and that the entire transactions has been recorded in the books of accounts. Hence, he submitted that confirmation of the adjudged demand is not legally sustainable. He further submitted that the show cause proceedings initiated by the Department are barred by limitation of time inasmuch as the demand pertains to the period 2004-2005 (up to 07.01.2005), whereas the show cause notice was issued on 13.09.2006.

4. On the other hand the ld. DR appearing for the Revenue reiterated the findings recorded in the impugned order and further submitted that M/s Ratna Packers is a dummy unit of M/s Maurya Printers Pvt Ltd. and accordingly, the goods cleared on the sales invoices should be included in the clearance value of the main manufacturer. Thus, he submitted that the confirmation of the adjudged demand is proper and justified.

5. Heard both sides and perused the case records.

6. I find that the authorities below have recorded specific findings against the appellant in support of confirmation of the adjudged demand. Since on the basis of available records and statements recorded from various persons, the authorities below have held that Ratna Packers was a dummy unit, created by the manufacturer and existed only on paper, the clearance value of such dummy unit should be clubbed with the value of Maurya Printers, such findings cannot be disturbed at this juncture for taking a contrary view. Further, to substantiate the stand that Ratna Packers is not dummy unit, the appellant M/s. Maurya Printers had not produced any plausible evidence before the Tribunal.

7. Therefore, I am of the view that the adjudged demand confirmed against the appellants is proper and justified. Accordingly, the appeals filed by the appellants are dismissed.

[Operative Portion pronounced in the open court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Sakshi