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

Date of Hearing/Order: 16.10.2017

No. E/569 & 605/2009

(Arising out of Order-in-Original No. 52/Commr./CEx/IND/2008 dated 4.12.2008 passed by Commissioner, Central Excise, Indore)

Siddhartha Tube Ltd. Appellant
Shri Nainesh Sanghvi, Managing Director

Vs.

CCE, Indore Respondent

Appearance

Shri Bipin Garg, Advocate - for the appellant

Shri R.K. Mishram D.R. - for the respondent

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

Final Order No. 57271-57272/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed against the order-in-Original No. 52/2008 dated 4.12.2008.

2. The brief facts of the case are that on 8.10.2003, a search was conducted by the Income Tax Department at the factory premises of the appellant where some incriminating documents were seized. So, the Income Tax department has informed the Central Excise

department. On the basis of information received from Income Tax department, the Central Excise department has made out some investigation and finally demanded the duty for clandestine removal which has been challenged in the present appeal by the appellant.

3. With this background we have heard Shri Bipin Garg, ld. Advocate for the Appellant and Shri R.K. Mishra, ld. DR for the Revenue.

4. After hearing both the parties and on perusal of record, it appears that finally on 16.2.2009, the ITAT has decided the Income Tax matter. But fact remains that Income Tax order and other evidence used by the Income Tax department were not in the knowledge of the original adjudicating authority. It is also not appearing from the record whether authority/department has carried out the independent investigation or asked the duty demand solely on the basis of the material provided by the Income Tax department.

5. In these circumstances, and by considering the totality of the facts and circumstances of the case, we are of the view that matter needs to be examined afresh specially when the income tax material including of ITAT order is also available with the original authority.

6. Hence, in the interest of justice, we set aside the impugned order and remand the matter to the original authority to decide the issue de novo but by providing necessary opportunity of hearing. Additional evidence, if need be, may be admitted as per law.

7. In the result appeals filed by the appellants are allowed by way of remand.

(Dictated & pronounced in open Court)

(B. Ravichandran) (Justice Dr. Satish Chandra)
Member (Technical) President

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