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

Date of Hearing/ Decision: 31.10.2017

Appeal No. E/51266/2017-SM
[Arising out of Order-in-Appeal No. 68-CE-DLH-2017 dated 18.04.2017 passed by the Commissioner of Central Excise (Appeals-I), New Delhi]

Dabas Plywood Industries — Appellant

Vs.

CCE Delhi-I — Respondent

Appearance

Shri Ram Pal, Advocate - for the appellant

Shri G.R. Singh, AR - for the respondent

CORAM: **Hon'ble Mr. M.V. Ravindran, Member (Judicial)**

Final Order No. 57522/2017

Per M.V. Ravindran:

1. This appeal is directed against Order-in-Appeal No. 68/2017 dated 18.04.2017,
2. Heard both sides and perused the records.
3. Ld. Advocate appearing on behalf of the appellant categorically submits that they are contesting only the redemption fine imposed by the Adjudicating Authority on the confiscated finished goods and raw material and consequent penalties. He submits that the finished goods which were held liable for confiscation were within the factory premises. Hence, the question of discharging duty liability does not arise and the confiscation ordered under Rule 25 is erroneous. It is his further submission that the confiscation of the raw material is also erroneous as the said raw materials are raw wood which are not excisable and exempted by Notification No. 12/2012, Serial No. 157.

4. Ld. departmental representative submits that the confiscation of the finished goods as well as raw material is correct as they were found unaccounted in the factory premises.

5. On careful consideration of the submission made, I find that the non-accounting of the finished goods in the records is undisputed. It is also undisputed that these finished goods were within the factory premises. I find that the goods which are lying unaccounted are liable for confiscation and I hold it so, however, the redemption fine imposed by the Adjudicating Authority seems to be excessive in the facts and circumstances of this case. Accordingly, I find that the ends of justice will be met if redemption fine imposed by the Adjudicating Authority is reduced to Rs. 1 Lakh. Subject to such modification, impugned order holding that the goods were liable to confiscation is upheld.

6. As regards the confiscation of the raw material, it is found that the said raw materials are raw wood and the said raw wood is exempted from payment of duty by virtue of entry No. 157 of Notification No. 12/2012. If raw materials are not liable to excise duty, the question of confiscating the same with an option of redeem the same by paying redemption fine does not arise. Be that as it may, it is settled law that the raw materials are not liable to be confiscated under provisions of Rule 25 of the Central Excise Rules, 2002.

7. Since I have upheld the confiscation of finished goods, consequent penalty also needs to be upheld. At the same time, the penalty imposed in the case in hand is excessive. Considering the fact that the confiscation of the raw material is set aside by the

Bench, keeping in mind the redemption fine imposed, the ends of justice would be met if the penalty is reduced to Rs. 50,000/

8. Subject to such modification, the impugned order upholding the penalty is upheld.

9. The appeals stands disposed of as indicated herein above.

(Order dictated and Pronounced in open Court)

(M.V. Ravindran)
Member (Judicial)

Rekha