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

Date of Hearing/Order: 8.11.2017

Appeal No. E/2430/2010-SM

(Arising out of Order-in-Appeal No. 84/CE/DLH/2010 dated 7.5.2010 passed by Commissioner of Central Excise (Appeals), New Delhi)

CCE, Delhi — Appellant

Vs.

M/s Three-X Electronics (India) — Respondent

Appearance

Shri U. Sengraj, D.R. - for the appellant

None - for the respondent

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

Final Order No. 57827/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed against the Order-in-Appeal No. 84/2010 dated 7.5.2010. List revised. None present on behalf of the appellant. In the absence of the appellant, heard Shri U. Sengraj, ld. DR.

2. The brief facts of the case are that the respondent is having a shop premises in Karol Bagh, New Delhi. A search was conducted at his residence as well as shop on 15.3.2007 which resulted in recovery of motor vehicle parts for two wheeler and three wheeler,

three CPUs, challans and some loose papers which were seized vide Panchnama dated 15.3.2007. On the basis of statement of Shri V.K, Gupta, proprietor dated 15.3.2007 and 16.3.2007, the department has made out a case for clandestine removal but the Commissioner (Appeals) has set aside the said order and allowed the relief. Being aggrieved, the department has filed the present appeal.

3. With this background, heard Shri U. Sengraj, ld. D.R.

4. I have gone through the material on record. From the record, It appears that the adjudicating authority vide its impugned order has already allowed the SSI exemption of Rs. one crore under Notification No. 8/2003 dated 1.3.2003, after allowing the SSI benefit nothing is left out.

5. From the record, it also appears that in the computerised data which was retrieved from CPU, no statement of any person or description of goods, quantity, names of the prospective buyer, mode or manner transport of the goods was found. No corroborative evidence was collected by the department. It was also not clear that who has feed the data in the CPU. In these circumstances, the Commissioner (Appeals) has observed that this is not a case of clandestine removal. So, he has set aside the impugned order.

6. By considering the totality of the facts and circumstances of the case, the Tribunal find no reason to interfere with the impugned order especially in the peculiar facts and circumstances of the case mentioned above.

7. In the result, appeal filed by the department is dismissed.

(Dictated & pronounced in open Court)

(Justice Dr. Satish Chandra)
President

RM