IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Excise Appeal No. 50366 of 2016

[Arising out of Order-in-Appeal No. 121-15-16 dated 29.12.2015 passed by the Commissioner (Appeals), Central Excise, Customs & Service Tax, Bhopal]

M/s. Man Trucks India P. Ltd. **Appellant**

Vs.

Commissioner of Central Excise **Respondent**
& ST, Bhopal

Appearance:

Shri Rahul Tangri, Advocate for the Appellants
Shri S K Bansal, AR for the Respondent

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

Date of Hearing/ Decision: 28.12.2017

FINAL ORDER NO. 58650 /2017

Per: B Ravichandran:

The appeal is against order dated 29.12.2015 of Commissioner (Appeals), Bhopal. The appellants are engaged in the manufacture of motor vehicles chassis. On completion of manufacture, after fitting the engine on the said chassis, they were clearing the same on payment of applicable Central Excise duty. The chassis with engine was cleared /removed to job worker who further manufactures the full motor vehicle by building full body. Thereafter, the job worker cleared the goods on payment of duty. The dispute in the present appeal is with reference to differential duty payable by the appellant on proper valuation of fully manufactured motor vehicle cleared by the job worker. The Revenue held a view that the job worker having cleared fully manufactured motor vehicle on behalf of the appellant to depot of the appellant for further sale, the correct valuation should be the transaction value of such motor vehicle and not the cost plus processing charge as adopted by the job worker. On this premise, the differential duty of Rs 22,19,802/- was confirmed against the appellant for the period March, 2008 to October,2010.

2. The learned counsel for the appellant submitted that they were clearing on payment of duty the goods which they have manufactured namely, the chassis with engines. They have not followed the job worker procedure under notification No.214/86 and as such, the arrangement with the job worker for further manufacture of fully built vehicle has no implication for excise duty. The job worker was a manufacturer of full motor vehicle and as such, should discharge duty at the applicable value during the relevant time. Even if there is a short payment of duty at the ends of job worker for the goods manufactured and cleared by them, the appellant shall not be liable for the same. The appellants did not manufacture the motor vehicle during the relevant period. As such, no duty liability or differential duty can be confirmed on the appellant for fully manufactured vehicle which is done by third party on job work basis.

3. Learned AR supported the findings of the lower authorities and submitted that the job worker being not the owner of the goods could not arrive at the proper valuation and as such, the appellant remains the owner of the goods who should discharge the proper duty on full transaction value.

4. We have heard Shri Rahul Tangri and Shri S K Bansal, learned representatives of the parties and perused the appeal record. The admitted facts are that the appellants are engaged in the manufacture of chassis and cleared the same after fitting it with engine, and discharge full duty liability of payment of such clearance. There is no dispute on payment of duty on such chassis with engine cleared by the appellant. The dispute is with reference to valuation adopted by the job worker on payment of duty on fully manufactured motor vehicle cleared by such job worker to the depot of the appellant for further sale by the appellants. Admittedly, the full motor vehicle was not manufactured by the appellant in their premises. The duty liability and correct valuation on such goods rest with the actual manufacturer. There is no job work arrangement in terms of Central Excise provisions to link up these two (appellant and job worker) for Central Excise provisions including the differential duty. The impugned order records that the job worker may not have full details for arriving at full value as the goods belonged to the appellants. We note, the same cannot be the the basis for demanding Central Excise duty from the appellant for the process which they have not

undertaken. Admittedly, the manufacture of full vehicle is not carried up by the appellant in their premises. On these facts, we find no merit in the impugned order and accordingly, the same is set aside.

5. In view of the above, Appeal is allowed.

(Dictated and pronounced in the open Court)

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

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