

IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:27.12.2017

Excise Appeal No.2311/2012

[Arising out of Order-in-Original No.12/2012/C.Ex/JPR-II-Commissioner dated
16.03.2012/19.04.2012 passed by the Commissioner of Central Excise, Jaipur (II)]

Tata Construction & Projects Ltd.

Appellant

Vs.

CCE, Jaipur

Respondent

Appearance:

Rep. by Shri Ravinder Narayan , Advocate & Ms.Ruchika Singh, Advocate for the
appellant.

Rep. by Shri R.K. Mishra, AR for the respondent.

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

Final Order No.58671/2017

Per B. Ravichandran:

The present appeal is filed against the order dated 16.03.2012 of
Commissioner of Central Excise, Jaipur-II. This order has been passed on a
“remand direction” given by the Tribunal vide Final Order No.235 of 2011 dated
15.02.2011.

2. During the course of submission, the ld. Counsel appearing for the official
liquidator of the appellant company states that the matter has been remanded more
than once on earlier occasions and could not reach the finality based on the proper
defence and submissions of the documentary evidence on behalf of the appellant.
Even the present impugned order was passed without actually hearing the appellant

(official liquidator in control of the appellant. A specific letter was addressed by the official liquidator on 22.11.2011 referring to the remand order of the Tribunal and also requesting for notice of personal hearing before adjudicating the case in pursuance of the CESTAT's directions. However, Id. Counsel submits that no notice has been received by them and hence, they could not place their defence before the Adjudicating Authority.

3. Ld. AR contested the impugned order on the ground that as per the impugned order, the notice has been sent on 22.12.2011 to the address of High Court, Calcutta. The initial contest of the appellant is that no proper classification was made of excisable goods and later on in further round of litigation, the appellant raised the objections that each of the product should be specifically identified and classified. This has been done in the impugned order.

4. We have heard both the sides and perused the appeal records.

5. We note that this case gone into many rounds of litigation. Unfortunately, finality could not be reached because of the defence submission with documentary support could not be taken on record for one reason or the other. The only plea of the appellant (now in control of official liquidator) is that to be heard for proper appreciation of their side of the defence before a final decision is taken. We find that the said plea is fair and acceptable. However, we note that in this case more than one remand directions were given and accordingly, in order to avoid any further delay and also to complete the proper adjudication at the earliest, we direct the appellant to appear before the Original Adjudicating Authority with all

supporting evidence on 19.02.2018. We will advice the Commissioner to take into account all the defence submissions and also keep in view the remand directions of the Tribunal, which resulted in the present impugned order. The impugned order is set aside. The matter is remanded to the Original Authority with the above observations.

[Order dictated & pronounced in open court]

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

Ckp.