

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

Date of Hearing/Order: 8.1.2018

Appeal No. E/1635/2005-DB

(Arising out of Order-in-Appeal No. 425-CE/BPL/2004 dated 30.11.2004 passed by the Commissioner (Appeals), Customs & Central Excise, Bhopal)

CCE & ST, Bhopal

Appellant

Vs.

M/s Bharat Heavy Electricals Ltd.

Respondent

Appearance

Shri H. Saini, D.R.

- for the appellant

Shri Z.U. Alvi, Advocate

- for the respondent

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

Final Order No. 50087/2018

Per Justice Dr. Satish Chandra :

The present appeal is filed by the department against the Order-in-Appeal No. 425/2004 dated 30.11.2004. The department has filed the appeal regarding the credit of Rs. 4,41,015/- which was allowed by the Commissioner (Appeals). The Commissioner (Appeals) in his order observed as under :

“A credit of Rs.4,41,015/- has been denied to the appellants on polythene film of thickness not exceeding 25 MM, Filter tank, oil filter part. In this regard, I find that filter tank, oil filter part, are eligible inputs for the manufacture of final products of the

appellants. However, so far as denial of credit on polythene film is concerned, I find that appellants have not stated the specific use of such polythene film. Hence, I am not able to grant and relief to the appellants on this issue. Held accordingly.”

2. On merit, we find no infirmity in the impugned order for the reason that without the transformer oil, the transformer cannot be used.

3. Moreover, the appeal is hit by the policy of litigation.

4. When it is so, then the appeal filed by the department is dismissed.

(Dictated & pronounced in open Court)

(V. Padmanabhan)
Member (Technical)

(Justice Dr. Satish Chandra)
President

RM