IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –IV

Excise Appeal No.E/2978-2980/2010 EX. [SM]

[Arising out of Order-in-Appeal No.100-102/CE/DLH/2010 dated 09.06.2010 passed by the Commissioner (Appeals), Central Excise, Delhi-I]

CCE, Delhi ...Appellant

Vs.

M/s. Supershine Laundry Systems Pvt. Ltd.
Shri Suresh Goel, Managing Director
M/s. Perfect Engineers ... Respondent

Present for the Appellant : Mr.K.Poddar, DR
Present for the Respondent: Mr.Marwah Pahwa, Advocate.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

Date of Hearing : 12/09/2017
Pronounced on :10/01/2018

FINAL ORDER NO. 50091-50093 /2018

PER: S.K. MOHANTY

The Revenue is in appeal against the impugned order dated 09.06.2010 passed by the Commissioner (Appeals), Central Excise, Delhi-I. The grievance of Revenue is that the order passed by the Commissioner (Appeals) is not legal and proper, inasmuch as, the respondent No.3 was not a dummy unit of respondent No.1 and that the duty liability on the later has not been correctly computed by the adjudicating authority. Revenue has also assailed the findings of the Commissioner (Appeals), which is to the effect that laundry machines seized by the Department from Respondent No.3 were not liable to duty and therefore, same were also not liable for confiscation under Rule 25 of the Central Excise Rules, 2002. Non-imposition of penalty on Respondent No.2 was also contested by Revenue in this appeal.

2. Heard both sides and examined the case records.

3. On perusal of the case records, I find that the ld. Commissioner (Appeals) has elaborately discussed that Perfect Engineers, the Respondent No.3 was not a dummy unit of Supershine Laundry Systems Pvt. Ltd., the Respondent No.1 and has also held that except recording of the statement, no other corroborative documentary evidences were produced by the Department to support such stand. I also find that in order to hold that the Respondent No.3 is not a dummy unit of Respondent No.1, ld. Commissioner (Appeals) has examined the documentary evidences, such as, Income Tax Returns, Sales Tax Returns and Bank Account etc. maintained by the Respondent No.3. In view of the fact that the Department has not produced any corroborative documentary evidences, indicating financial flow back and mutuality of interest between the Respondent No.1 & 3, the above observations made by the Commissioner (Appeals) in the impugned order is proper and

justified and cannot be interfered with at this juncture. Further, I also find that the benefit of trading goods has been extended by the ld. Commissioner (Appeals) by relying on the statement dated 17.05.2007 of Shri Jarnail Singh, Proprietor of M/s. Matharoo Manufacturing Co. indicating that it had supplied Flat Bed Presses, Laggar Press Mashroom Press and other type of presses, Padding Blower Fans to M/s.Supershine Laundry System against invoices on payment of appropriate amount of VAT. Since such findings were recorded by the Commissioner (Appeals) upon perusal of the documents available before him, the conclusions arrived at in extending the benefit of trading goods is proper and justified. I also find that by extending the benefit of SSI Exemption to the Respondent No.1, in terms of Notification No.8/2003-CE dated 01.03.2003 for the year 2004-05, the ld. Commissioner (Appeals) has confirmed the duty demand of Rs.2,27,907/- with regard to confiscation of laundry machines seized from the factory premises of Respondent No.3. The ld. Commissioner (Appeals) has held that the said firm is not a dummy unit of Respondent No.1, but an independent legal entity and therefore, entitled to the SSI exemption. Accordingly, Commissioner (Appeals) has set aside the confiscation of the laundry machines and also penalty imposed on the Respondent No.3.

4. In view of the fact that the Commissioner (Appeals) has passed a detailed speaking/reasoned order while finalizing the appeals filed by the respondents herein, I am of the considered opinion that the said order cannot be disturbed at this juncture. Therefore, the appeals filed by the Revenue are dismissed.

[Pronounced in the Open Court on 10.01.2018]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita