CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 11.01.2018

Appeal No. E/52986-52987/2016 & E/ 50198/2017 EX (DB)
[Arising out of Order-in-Original No. OIO-ALW-EXCUS-O-I-O-COM-35-16-17 dated 05/09/2016 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-Alwar]

Rallison Electricals Pvt.Ltd.
Lalit Babbar
Sakshi Markfin Pvt.Ltd. … Appellant

Vs.

CCE, Alwar … Respondent

Appearance:
Present Mr.Prabhat Kumar & R.K. Hasija, Advocate for the appellant
Present Mr. H.C. Saini, DR for the respondent

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

FINAL ORDER No. 50148-50150/2018

Per Justice Dr. Satish Chandra

1. All the three appeals have been filed against the Order-in-Original No. 35/2016 dated 05/09/2016.

2. Brief facts of the case are that the *Rallison Electricals Pvt. Ltd*. is the manufacturer of electrical cables who procured the raw material from *M/s Sakshi Markfin Pvt. Ltd.,* appellant (Appeal No. 50198/2017). The appellant has claimed the Cenvat Credit but the same was denied by the Department by observing that this is the third stage when *M/s Sakshi Markfin Pvt. Ltd*. has supplied the input material to the manufacturer.

3. Being aggrieved, the appellants are in appeal before the Tribunal.

4. With this background, we heard Shri Prabhat Kumar & Shri R.K. Hasija, Ld. Counsel for the appellants who submit that the goods were manufactured by *M/s Ricon Energy UK Ltd*. which was imported by *M/s Vision Petro Plast Pvt. Ltd*. (first stage dealer /importer) who

supplied the goods to *M/s Sakshi Markfin Pvt. Ltd.* (second stage dealer) who further supplied the inputs to *M/s Rallison Electrical Pvt. Ltd* (manufacturer).

5. It is the submission of the Ld. Counsel that *M/s Ricon Energy UK Ltd.* has no office in India. The goods were first time imported by M/s Vision Petro Plast Pvt. Ltd. bill of entry was prepared to this effect. It is their submission that the first stage dealer is *M/s Vision Petro Plast Pvt. Ltd;* and second stage lies with *Sakshi Markfin Pvt. Ltd.* who finally supplied the input to M/s Vision Petro Plast Ltd. (manufacturer). Only two stages were used.

6. By considering the rival submissions, we set aside the impugned order and remand the matter to the Original Authority to verify whether the goods were imported by *M/s Vision Petro Plast Pvt. Ltd*. from *M/s Ricon Energy UK Ltd*. The AO will also examine the genuineness of the bill of entry before deciding the issue de novo but by providing the reasonable opportunity to the assessee. Fresh evidence, if need be, may be admitted as per law.

7. When the matter is remanded to the Original Authority by setting aside the impugned order then the ancillary issues will be decided afresh too.

8. In the result, all the appeals filed by the appellant are allowed by way of remand.

[Order Dictated and Pronounced in the open court]

(V.Padmanabhan)
Member (Technical)

(Justice Dr Satish Chandra)
President

Rekha