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

COURT-I

Date of hearing/decision: 17.01.2018

Appeal No. E/2910/2007 EX (DB)
[Arising out of Order-in-Original No. COMMISSIONER/RPR/37/DEVO/2007 dated 10/08/2007 passed by Commissioner of Central Excise-RAIPUR]

Uniworth Ltd … Appellant

Vs.

CCE Raipur … Respondent

Appearance:
Present Mr Jitin Singhal, Advocate for the appellant
Present Mr H. Saini, DR for the respondent

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

FINAL ORDER No. 50246/2018

Per Justice Dr. Satish Chandra

1. The present appeal is against Order-in-Original 37/2007 dated 12/08/2017.

2. Brief facts of the case are that the appellant is 100 per cent EOU and engaged in manufacture of Wool Tops, All Wool and Wool Silk Yarns. The factory was searched on 26/04/2006 to 08/05/2006. On the basis of stock verification of the goods, the department has made out a case of the clandestine removal. Being aggrieved, the appellant has filed the appeal before the Tribunal who vide Final order 244-245/2005 dated 03/01/2005 has remanded the matter to the Original Authority, and in compliance the directions, the AO has passed the order on 01/06/2006 and reduced the demand to Rs. 14,46,746/- and also reduced the penalty to Rs. 12 lakhs. Still not being satisfied

the appellant has filed the appeal before the Tribunal who vide its Final Order No. 808/2006 dated 19/10/2006 has again remanded the matter to the Original Authority.

3. In compliance to the directions, the Original Authority has passed the impugned order where the earlier order was repeated pertaining to the demand and penalty as well as redemption fine. Still not being satisfied, the appellant has filed the present appeal.

4. With this background we heard Shri Jitin Singhal, Ld. Advocate for the appellant and Shri H.C. Saini, Ld. DR for the Revenue. It is evident that the case was remanded two times. This time, the Original Authority has passed the following order:-

> *8.7. At Sl. No. 1 of the Annexure-'W', the party have referred to 'production slip No. 1002' but no such production slip has been produced. At Sl. No. 2, Totaling mistake in Panchnama dtd. 29.04.1996 has been mentioned but no mistake in a particular page of the Panchanama/Annexure has been pointed out. At Sl No. 3, with reference to Panchnama dtd. 30.04.96,7097 kgs is said to have been loaded in container, but copy of invoice with time of preparation has not been produced. At Sl No. 5, final panchnama dtd. 01.05.96 drawn in WIL's Godown No. 1' has been referred but copy of such a Panchnama is not produced. At Sl. No. 6, with reference to final Panchnama dtd. 01.05.96 drawn in FIL's Godown No. 1, 16968 Kgs are claimed to be belonging to WIL and similarly, at Sl. No. 7 with reference to final Panchnama dtd. 01.05.96 drawn in FIL's Godown No. 2, 50464 Kgs are claimed to be belonging to WIL but no document to this effect is produced at the time of re-adjudication. Thus, the total quantity of yarn mentioned as 7,16,817 kgs in the Annexure-W is not acceptable.*

5. During the course of arguments, Jitin Singhal, Ld. Advocate for the appellant submits that all the documents discussed above have already been submitted before the Adjudicating Authority. He has drawn the attention of the Ld. Representative of the Department towards the paper book where the said documents

are available. But the Ld. Representative of the Department states that these documents cannot be verified at this forum.

6. Both the parties have also agreed that genuineness of these documents can only be examined by the Original Authority. Hence, for limited purpose to examine the genuineness of the documents, we set aside the impugned order and remand the matter to the Original Authority.

7. The Original Authority is requested third time, to examine the genuineness of the documents and decide the issue de novo but by providing reasonable opportunity of hearing to the appellant. Additional evidence, if need be, may be admitted as per law. It may mention that the matter is too old and we are remanding the matter with a heavy heart, so it is expected that Adjudicating Authority will decide the matter within a period of three months. If assessee will not cooperate then law will take its own course.

8. In the result, the appeal filed by the appellant is allowed by way of remand.

[Order Dictated and Pronounced in the open court]

(V. Padmanabhan)
Member (Technical)

(Justice Dr Satish Chandra)
President

Rekha