

E/52767 &amp; 52886/2015-EX(DB)

IN THE CUSTOMS, EXISE AND SERVICE TAX APPELLATE TRIBUNAL,  
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing: 19.01.2018

Date of Pronouncement: 29.01.2018

**Appeal No. E/52767 & 52886/2015-EX(DB)**

[Arising out of Order-in-Appeal No. 41-42/CE/DLH/2015 dated 31.03.2015  
passed by the Commissioner of Central Excise (Appeals-I), Delhi]

Shri Girish Vadhara, Proprietor  
M/s Electro Industrial Sales Corporation  
Vs.

Appellant

CCE, Delhi-I

Respondent

**Appearance:**

Rep by Ms. Priyanka Goel, Advocate for the appellant.

Rep by Shri M.R. Sharma, DR for the respondent.

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

**Final Order No. 50337-50338/2018****Per V. Padmanabhan:**

The present appeals are filed by the assessee as well as Shri Girish Vadhera, Director, against the Order-in-Appeal No. 41-42 dated 30.03.2015. M/s Electro Industrial Sales Corporation (EISC) was engaged in the manufacture of transformer, SMPS transformer, choke coil, power supply, etc., falling under Chapter 85 of the Central Excise Tariff Act. The dispute pertains to the period 2011-2012 and 2012-2013, during which the departmental authorities denied the benefit of SSI exemption.

2. M/s Electro Industrial Sales Corporation was not registered with the Central Excise department. During the course of search of the premises occupied by EISC on 26.12.2012, the departmental authorities found that EISC's activities were spread over basement, ground floor, first floor and second floor of the building. Manufacturing activities were found to be on-going in the basement, but no capital goods or material were found in the first and second floors. In addition to the invoices of M/s Electro Industrial Sales Corporation, the departmental officers also found the invoice books of M/s Numinous Systems Pvt. Ltd. (NSPL), showing clearances of transformers. Shri Girish Vadhera was the proprietor of M/s Electro Industrial Sales Corporation and was a director of M/s Numinous Systems Pvt. Ltd., along with his wife Smt. Sushma Vadhera. There was no segregation of the inputs, goods in progress and final products of the two firms. Goods valued at Rs. 1,26,511/- found in the premises were seized. Statement of Shri Girish Vadhera was recorded and after completion of investigation of the case and issue of show cause notice dated 24.06.2013, the Central Excise duty amounting to Rs. 21,77,878/- was demanded vide Order-in-Original dated 10.03.2014 along with interest and penalty of equal amount. A penalty of Rs. 2,00,000 was also imposed on Shri Girish Vadhera. The Order-in-Original was upheld by the Commissioner (Appeals). Aggrieved by the impugned order of Commissioner (Appeals), the present appeals have been filed which are being disposed off through this common order.

3. With the above background, we heard Ms. Priyanka Goel, learned Advocate representing the appellant, as well as Shri M.R. Sharma, D.R. representing Revenue.

4. The Ld. Counsel for the appellant submitted that M/s Electro Industrial Supplies Corporation, as well as M/s Numinous Systems Pvt. Ltd. had separate identity, even though they were manufacturing similar products. She submitted that M/s Numinous Systems Pvt. Ltd. was established in July 2010 and was operating from a different premise which has not been disputed by the department. Since both units are registered separately for Income Tax and Sales Tax, etc., the SSI exemption will be independently available for both units.

5. The learned D.R. justified the impugned order. He submitted that even if the two firms had independent existence, the goods have been manufactured in the single common premises. Consequently, the total values of clearances of both units are liable to be clubbed for purposes of the grant of the benefit of SSI exemption.

6. We have heard both sides and perused the records. During the course of search of the business premises of M/s Electro Industrial Supplies Corporation, on 26.12.2012, the departmental officers noticed that manufacture of goods, such as transformers, power supply, etc., was in progress. Even though documents, such as invoices were found in the names of both firms, there was no segregation of premises or machinery or workers. Capital goods were found installed and being used for

manufacture at the basement. Even in respect of workers found to be working in the premises, there was no segregation as to who was working for which firm. It is clearly established that Shri Girish Vadhera is the main person who is the proprietor of M/s Electro Industrial Sales Corporation and the Operating Director of M/s Numinous Supplies Pvt. Ltd. Only one electricity connection was found in the premises which was being used by both.

7. The SSI benefit has been claimed in terms of Notification No. 8/2003-CI dated 01.03.2003. Para 2(vi) reads as under:

*“(vi) where the specified goods are cleared by one or more manufacturers from a factory, the exemption shall apply to the aggregate value of clearances mentioned against each of the serial numbers in the said Table and not separately for each manufacturer.”*

8. The above condition of the Notification clearly specifies that the aggregated limit of Rs. 1.5 crore in a Financial Year applies to the aggregate value of the clearances for all manufactures from a single factory. In the present case, the factory premises is found to be common where goods have been manufactured and cleared under the invoices of M/s Electro Industrial Sales Corporation, as well as M/s Numinous Supplies Pvt. Ltd. separately. Even though both the firms have been shown to have separate existence, since the goods have been manufactured from single common factory premises, the values of clearances of both the firms are required to be clubbed in terms of the above provision of the Notification.

9. In the light of the above discussions, we find no reason to interfere with the impugned order which is sustained and both the appeals are dismissed.

[Pronounced in Open Court on 29.01.2018]

(Justice (Dr) Satish Chandra)  
President

(V. Padmanabhan)  
Member (Technical)

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