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/51539/2017- [SM]
Excise Appeal No. E/53045/2016- [SM]

[Arising out of Order-in-Appeal No.135-136 (AK)CE/JPR/2016 dated 14.06.2016 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur]

M/s.JVM Plywood (P) Ltd.
Shri Rajendra Dangayach ...Appellant

Vs.

C.C.E. & S.T., Jaipur-I ... Respondent

Present for the Appellant : Mr.Kumar Vikram, Advocate
Present for the Respondent: Mr.G.R. Singh, D.R.

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

Date of Hearing/Decision: 27/02/2018

FINAL ORDER NO. 50916-50917 /2018

PER: S.K. MOHANTY

These appeals are directed against the impugned order dated 14.06.2016 passed by the Commissioner of Customs and Central Excise (Appeals), Jaipur. In these cases, the Department has confirmed Central Excise duty demand of Rs.20,07,084/- on the ground that during the period 2003-04, the appellant had shown the value of clearances of the finished goods as Rs.1,15,63,837.55 in its ER-I return filed before the Department, whereas in the audited balance sheet for the said period, the appellant had reflected Rs.2,41,08,109.60. Thus, on the difference on the sale value of Rs.1,25,44,272.05, the differential duty at the rate of 16% *ad valorem* was calculated by the Department and accordingly, the duty demand of Rs.20,07,084/- was confirmed on the alleged ground that the appellant has short paid such duty amount, with an intent to evade the statutory levy.

2. The ld. Advocate appearing for the appellant, at the outset, submits that the Adjudicating authority had passed the order dated 31.05.2006, without granting adequate opportunity of personal hearing to the appellant. Thus, he submits that the charges levelled against the appellant for clandestine removal of goods cannot be sustained, without any supporting evidences. Thus, he submits that if the matter is remanded back to the original authority, the appellant will produce adequate documents/ records to demonstrate that the goods were not clandestinely removed from the factory.

3. On the other hand, the ld. DR appearing for the Revenue reiterates the findings recorded in the impugned order.

4. Heard both sides.

5. I find that the adjudicating authority, in this case, has passed the ex-parte order in confirming the duty demand on the appellant on the ground of clandestine removal of goods. Since the appellant at this juncture, submits that it has adequate documents/records to demonstrate that appropriate

duty liability has been discharged and the goods were not clandestinely removed from the factory, I am of the view that as per the principles of natural justice, one more opportunity should be granted to the appellant to produce the documents before the original authority.

6. Therefore, after setting aside the impugned order, I remand the matter to the original authority with a direction for passing fresh adjudication order on the basis of documents/ records to be submitted by the appellant.

7. In the result, the appeals filed by the appellants are allowed by way of remand to the original authority.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita