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

COURT-I

Date of hearing/ Decision: 02.04.2018

Appeal No. E/50075/2018-EX (DB)
[Arising out of the Order-in-Appeal No. BHO IND-EXCUS-000-APP-249-17-18 dated 13/10/2017 passed by COMMISSIONER OF CGST & CENTRAL EXCISE-INDORE (Appeal)]

KRITI INDUSTRIES INDIA LIMITED Appellant

Vs.

C.C.E. & S.T.-INDORE Respondent

Appearance:
Present Shri S.N. Panda, Advocate for the appellant
Present Shri H. Saini, DR for the respondent

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

FINAL ORDER No. 51185/2018

Per: V. Padmanabhan

1. The present appeal is filed against Order-in-Appeal No. 249/2017-18 dated 15/10/2017.

2. The appellant is engaged in the manufacture of plastic pipe accessories. The dispute pertains to the period 2012-2013 and the Departmental officers observed during the internal audit that the appellant has claimed cash discount which was subsequently received back from the customers. Revenue was of the view that such cash discounts which were returned from the buyers were not admissible and accordingly the differential Central Excise duty demand of Rs. 59,568/- was raised. The disputed differential duty was also paid by the appellant, however, subsequently the Department issued show cause notice and the authorities below confirmed the differential duty

along with interest and also penalties leviable under various sections of the Central Excise Act. Aggrieved by the impugned order present appeal has been filed.

3. After hearing both sides and on perusal of record we note that the differential Central Excise duty which has been confirmed against them is not being disputed. The same also stands paid. The only dispute is with reference to the penalty levied on the appellant.

4. In the facts and circumstances of this case, we are of the view that since the duty stands paid even before the show cause notice this is not a fit case for imposition of penalty. Hence penalty is set aside. The duty demand is upheld since the same is not being disputed by the appellant.

5. In the result, appeal is partly allowed.

[Order Dictated and Pronounced in the open court]

(Justice Dr. Satish Chandra)
President

(V. Padmanabhan)
Member (Technical)

Rekha