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

Date of hearing/decision: 31.05.2018

Ex. Appeal Nos. 50821 - 50822 of 2018-SM
(Arising out of order –in-appeal No. 313-314/CE/DLH/2017 dated 16.11.2017 passed by the Commissioner of Central Excise, Delhi-I).

Prashant Garg Appellant
M/s R.N.P. Slide India Pvt. Ltd.

Vs.

CCE, Delhi-I Respondent

Appearance:

Ms. Priyanka Goel, Advocate for the appellant
Sh. H. C. Saini, AR for the Respondent

Coram:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)

Final Order Nos. 52104-52105/2018

Per: **Archana Wadhwa**:

The challenge in the present appeals is to confiscation of the raw material, packaging material as also semi finished and finished goods found in the appellant's factory, which was seized on the ground that the same was not entered in the statutory record. Further, penalty also stand imposed on both the appellants.

2. The contention of the assessee is that they were working under small scale exemption limit and as such were under no legal obligation to maintain the statutory record. The same was duly entered in their private record as required under the law and as such confiscation of the same is not justified. She also submits that it is not the Revenue case that they are indulging in clandestine

activity and goods were not entered in the record with a malafide intention to remove the same without payment of duty. In the absence of any evidence to that effect the excess found goods cannot be held as held in the case of ***CCE, Delhi-II vs. Ganpati Rolling Pvt. Ltd. & Anr. -2016 (6) TMI 157 –Delhi High Court***. She also submits that there is no provision for seizure or confiscation of the raw material, which has not been entered in the statutory record. I find that admittedly the appellant are working under the small scale exemption limit and there is no evidence to reflect upon the fact that the appellants were not entering the goods with an any malafide intention. In such a scenario, the confiscation of the same with redemption fine or imposition of penalties is not justified. I accordingly set aside the impugned order and allow both the appeals with consequential relief.

(Dictated and pronounced in the open Court).

(Archana Wadhwa)
Member (Judicial)

Pant