CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

Date of Hearing/Decision: 19.06.2018

APPEAL NO. E/50236/2017-EX(DB)

[Arising out of OIA No. DDN-EXCUS-000-APP-217-16-17 dated 09.11.2016 passed by the Commissioner (Appeals), CCE&ST, Dehradun]

M/s Trading Engineers International Ltd. …Appellant

Vs.

CCE & ST, Dehradun …Respondent

Appearance:

Represented by Shri Aalok Arora, Advocate for the Appellant
Represented by Shri S.K. Bansal, DR for the Respondent

Coram:

Hon'ble Mr. Anil Choudhary, Member (Judicial)
Hon'ble Mr. Bijay Kumar, Member (Technical)

Final Order No. 52622/2018 dated 19.06.2018

Per Anil Choudhary:

Heard the parties.

2. Issue in appeal is whether the extended period of limitation has rightly been invoked. The admitted facts are that the Appellant have done galvanization of Battery-Box Support / Stands and Clamps made of mild steel by the principal manufacturer M/s Unitech Machines Limited, Roorkey (manufacturing under area based exemption scheme, under

Notification No. 50/2003-CE). The period in dispute is October 2012 to September 2013. The Appellant have placed on record in the appeal paper book intimation dated 09.11.2012, informing the Divisional Deputy Commissioner, written by the principal manufacturer that they shall be getting the work of galvanization from the Appellant, by sending their input / raw material / semi-finished goods. It is further intimated that the final product manufactured at the premises of the principal manufacturer will be cleared at Nil rate of duty, under Notification No. 50/2003-CE, in the light of clarification contained in Circular dated 22.12.2010. We find that the Revenue have not disputed such intimation to it, in the orders of the Court below. In this view of the matter, we hold that Revenue had proper intimation of the activities / affairs of the Appellant / Assessee and as such, the contention of Revenue that it was in dark, is totally without any basis and a wild allegation.

3. On considering the rival contentions, we hold that the extended period of limitation is not available and accordingly, we allow this appeal and set aside the impugned order. Learned DR has drawn our attention to Para 6.4.2 of O.I.O.,

where it is mentioned that the party has not directly written this letter, but by the principal manufacture.

Our finding is fortified that the Department was aware of the fact, whether it is given by the principal manufacturer or by the job worker-appellant thereof.

Thus, the appeal is allowed and the impugned order is set aside.

[Dictated in open court]

(Anil Choudhary)
Member (Judicial)

(Bijay Kumar)
Member (Technical)

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