

**IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
West Block No. 2, R.K. Puram, New Delhi - 110 066.**

**Date of Hearing/Decision: 12/12/2018**

**Appeal No. E/53069/2018-(DB)**

(Arising out of Order-in-Appeal No. 44-45-DDN-CE-000-APPL-DDN-RKE-2017-18 dated 15/03/2018 passed by the COMMISSIONER OF CGST & CENTRAL EXCISE-Dehradun)

CGST C.C & C.E-DEHRADUN

Appellant

Vs.

SHIPRA TECHNOLOGY PVT LTD

Respondent

Appearance

Shri S.K. Baulal, DR.

Shri Rakshit Verma, Advocate

for the appellant

for the respondent

**CORAM: Hon'ble Mr. ANIL CHOUDHARY, Member (Judicial)  
Hon'ble Mr BIJAY KUMAR, Member (Technical)**

**Final Order: 53409 /2018**

**Per: Bijay Kumar**

1. Revenue being aggrieved by the impugned order in appeal passed by the Commissioner(Appeal), vide order No. 44-45/2018, has filed the present appeal before us. The grievance of the Department is that the Commissioner(Appeal) has confirmed the order passed by the Ld. Adjudication Authority on the ground of classification, however, the penalty was set aside by the Commissioner(Appeal). The Appeal was allowed on the grounds of limitation.

2. After hearing both the sides for sometimes, we find that the appellant had also filed appeal for the portion of the demand confirmed against them which was heard by this Tribunal on 29/10/2011, and the matter was remanded back, to the original Adjudicating Authority vide the final order No. 53222/2018, keeping

all the issues open. It was also directed, in the order of this Tribunal that Ld. Adjudicating Authority will take into the consideration of the practice of the classification being followed the impugned product under 4810990 or 48115990 after ascertaining the various practice being followed by Commissionerate and also applying the ratio laid down the Tribunal Decision in case of **Commissioner of Central Excise, Mumbai vs. Narender Kumar & company**-2008 (232) ELT 866 (Tri-Mum).

3. In view of the above , we are of the considered view that as the demand has been send for reconsideration on the prayer of appellant, Revenue appeal is also remanded back to the Adjudicating Authority to consider entire fact fresh and passed the appropriate order as per law in terms of this order.

4. Therefore, Revenue appeal allowed by way of remand.

(Dictated and pronounced in open court)

(Anil Choudhary)  
Member(Judicial)

(Bijay Kumar)  
Member(Technical)

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