CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Division Bench
Court – I

Appeal No. E/870/2009

(Arising out of Order-in-Appeal No. 23/2008 (G) CE dated 05.06.2009 passed by Commissioner of Customs & Central Excise (Appeals), Guntur)

Nagasai Polymers …..Appellant(s)

Vs.

Commissioner of Customs, Central Excise & Service Tax, Guntur …..Respondent(s)

Appearance
Written Submissions for the Appellant.
Shri Dass Thavanam, Superintendent (AR) for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)
Hon'ble Mr. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 17/07/2018
Date of Decision: 17/07/2018

FINAL ORDER No. A/30797/2018

[Order per: M.V. Ravindran]

This appeal is directed against Order-in-Appeal No. 23/2008 (G) CE dated 05.06.2009.

2. None appeared on behalf of the appellant. Advocate on record has made a request, considered the grounds of appeal made by them and disposed of the appeal on merits. The said letter dated 16.07.2018 of the advocate is taken on record and considered the grounds of appeal.

3. Heard the Learned Departmental Representative and perused the records.

4. The issue involved in this case is regarding under valuation of the clearances made by the appellants of the finished products i.e. HDPE bags. This is the third round of litigation before the Tribunal. In earlier two grounds, the Bench directed the lower authorities examine the issue as to the documents recovered more specifically the chits that indicted additional payment of appellant. The Adjudicating Authority in these proceedings, specifically adverting to such direction, analysed and confirmed the demands raised. The grounds taken by the appellant before the Tribunal in this appeal is similar to the grounds which are agitated before the First Appellate Authority i.e. the Adjudicating Authority did not examine the chits in depth and that the show cause notice is issued after the period of limitation from the date on which Department had a knowledge of the facts of an amount received on chits.

5. We find no merits in the grounds agitated before the Tribunal in this appeal. We find that the First Appellate Authority in para No. 7 has specifically considered the issue of a particular chit No. 84 dated 20.01.2001 and invoice No. 768 dated 21.01.2001 raised in respect of a specific purchaser of the appellant and came to a conclusion that similarities on this account between the chit and corresponding invoice. He has done a factual verification on this issue and hence we find that on facts there is no dispute as to that appellant had collected additional amounts over and above the amounts which were shown on the excise invoice. We also note that the First Appellate Authority has clearly adverted to the direction on the issue of time barred nature, which we find is correct and hold does not require any interference.

6. Accordingly, in the facts and circumstances of this case, we find the impugned order is correct and legal and does not suffer from any infirmity. The impugned order is upheld and appeal stands rejected.

(Order pronounced & dictated in open court)

P. VENKATA SUBBA RAO	**M.V. RAVINDRAN**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Lakshmi….