

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Division Bench
Court - I

Appeal No. C/740/2012

(Arising out of Order-in-Appeal No. 56/2011 (V) CH dated 09.01.2012 passed by CCCE & ST, Visakhapatnam)

Hindustan Petroleum Corporation Ltd **Appellant(s)**

Vs.

CC, Visakhapatnam - CUS **Respondent(s)**

Appearance

Shri G. Prahlad, Advocate for the Appellant.

Shri B. Guna Ranjan, 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: 08.11.2018

Date of Decision: 08.11.2018

FINAL ORDER No. A/31467/2018

[Order per: M.V.Ravindran.]

1. This appeal is directed against Order-in-Appeal No. 56/2011 (V) CH dated 09.01.2012.
2. Heard both sides and perused the records.
3. The issue that falls for consideration in this appeal is in a narrow compass. We notice that the same is regarding discharge of Customs Duty on the goods imported is whether to be based upon transaction value or on shore tank basis and whether amount of NCCD is payable or otherwise and consequences thereof after such assessments.
4. It has to be noticed that the issue of valuing the imported goods of appellant is already decided by the Bench which holds that the quantity received in shore i.e., shore quantity has to be considered as receipts for

demanding Customs duties; that appellant is required to discharge the NCCD duty. Thus two basic questions of law having been settled, the entire issue in this appeal regarding the refund of excess amount paid as duty and interest needs re-consideration by the adjudicating authority by reassessing the bills of entry based upon the ratio decided by this Bench in the appellant's own case.

5. Accordingly, we set aside the impugned order and remit the matter back to the adjudicating authority to reconsider the issue afresh after following principles of natural justice and also considering the decision of the Bench on the very same issue in respect of this appellant.

6. Appeal stands disposed of by way of remand.

(Dictated and pronounced in the open Court)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)
Veda

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)