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

Appeal No. E/1540/2010

(Arising out of Order-in-Appeal No. 44/2010 (H-IV) CE dated 12.04.2010 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals-II), Hyderabad)

M/s Dr Reddy's Laboratories Ltd., ...Appellant(s)

Vs.

Commissioner of Customs, Central Excise & Service Tax, Hyderabad- IV .....Respondent(s)

Appearance
Shri S. Thirumalai, Advocate for the Appellant.
Shri V.R. Pavan Kumar, (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: 21/03/2019
Date of Decision: 21/03/2019

FINAL ORDER No. <u>A/30421/2019</u>

[Order per: M.V. Ravindran]

This appeal is directed against Order-in-Appeal No. 44/2010 (H-IV) CE dated 12.04.2010.

2. Heard both sides and perused the records.

3. Appellant is an export oriented unit and had filed for de-bonding unit on 14.10.2009, gave details of stocks on 20.10.2009;

Final Exit order was given on 09.03.2010. On 11.02.2010, the office of the Deputy Commissioner of Customs & Central Excise, Hyderabad issued a letter C No. IV/16/40/2009-Tch (PF), vide which it was directed to pay various duties. Appellant is aggrieved by paragraph No. 4 only of the letter, it is reproduced:

> "*4. With regards to payment of duty on finished/work in progress goods, it was contended by assesses is that the duty need not be paid at time of debonding and the same need to be paid at the actual time of removal. In support of their contention they have submitted certain case laws. However, so far no notification/circular are being issued to exempt the same for payment of duty. Hence, the assesses is requested to pay the duty on finished and work in progress goods."*

Appellant is aggrieved on the ground that WIP, finished goods, during the interregnum and subsequent to period wherein they applied for debonding and final exit order was issued no demand was raised and the goods were exported; that the appellant preferred an appeal before the First Appellate Authority against such letter dated 11.02.2010. The First Appellate Authority after following due process of law, rejected their appeal. In the case in hand, the appellant is contesting the said finding on the ground that identical issue of their own company in respect of Visakhapatnam unit was considered by the Tribunal in appeal No. E/2049/2012-SM and disposed of by Final Order No. 27102/2013 dated 06.12.2013 and produced copy of the order of the Hon'ble High Court wherein, the Hon'ble High Court dismissed the appeal of the Revenue as infructuous. It is the claim of the Learned Counsel that the issue stands settled in their favour.

4. After considering the submissions made by both sides, we do find that similar issue of de-bonding and discharging of Central Excise duty on semi-finished and finished goods lying in stock on the

date of final exit order, was considered by the bench in the appellant's own case in appeal No. E/2049/2012. The Bench after considering the various submissions and analysis of the law point in paragraph No. 4 held as under:

> "*4. Since the Tribunal has taken a decision on merits and has taken a view that the duty need not be paid on the finished goods and work in process, I am bound to follow this decision in the absence of any contrary decision of the Tribunal or a superior judicial forum produced before me. Accordingly, following the precedent Tribunal decision, the appeal filed by the appellant is allowed with consequential relief if any to the appellant."*

Against such an order of Tribunal, a Central Excise appeal was preferred before the High Court, it was numbered as 103/2015. Their Lordships on 14.03.2016, after considering the submissions made dismissed the appeal filed by the Revenue as infructuous, leaving the question of law open to be adjudicated in appropriate case. In the case in hand, since the issue involved is the same and in the appellant's own case decided by the Tribunal and upheld by the jurisdictional authority, following the same we hold that the impugned order is unsustainable and liable to be set aside and we do so.

5. For the foregoing reason, the impugned order is set aside and the appeal is allowed with consequential reliefs, if any.

(Order pronounced & dictated in open court)

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

Lakshmi….