IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA

Ex.Appeal No.12/08

(Arising out of Order-in-Appeal No.31/HAL/07 dated 14.09.2007 passed by the Commissioner of Central Excise (Appeals), Kolkata)

M/s Howrah Forgings Ltd.

Applicant (s)/Appellant (s)

Vs.

Commr. of Central Excise, Haldia

Respondent (s)

Appearance:

Shri N. K. Chowdhury, Adv. for the Appellant (s)
Shri S. S. Chattopadhyay, Supdt. (A.R.) for the Revenue(s)

CORAM:
HON'BLE SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE SHRI V. PADMANABHAN, TECHNICAL MEMBER

Date of Hearing : 02.05.2018
Date of Decision : 02.05.2018

ORDER NO - **FO/A/75911/2018**

Per Dr. Satish Chandra :

The present appeal is filed against the Order-in-Appeal No. 31/HAL/07 dated 14.09.2007 passed by the Commissioner of Central Excise (Appeals), Kolkata.

2. Briefly stated the facts of the case are that the appellant has supplied ERC (Electric Railway Clip) to their customer, Indian Railways as per the contract and paid excise duty on the transaction value of the goods. They have charged transportation cost separately as mentioned in the contract. Freight charge is excludible from assessable value for payment of excise duty, but the Department was of the view that the amount charged by them by way of freight over and above the actual freight amount paid, should be included in the assessable

value for payment of excise duty and confirmed the demand of differential duty and the appeal has been filed against such confirmation of duty.

3. With this background, we have heard Shri N.K.Chowdhury, ld.Counsel for the appellant as well as Shri S.S.Chattopadhyay, ld.A.R. for the Revenue.

4. After hearing both sides and on perusal of the record, we find that an identical issue has been considered and decided by the Hon'ble Supreme Court in the case of Baroda Electric Meters Ltd. Vs. Collector of Central Excise : 1997 (94) ELT 13 (S.C.). We also find that by following the above decision, similar view has been taken by the Tribunal in the cases of (i) Bathinda Industrial Gases Vs. CCEx. & S.Tax, Chandigarh II : 2014 (308) ELT 111 (Tri.-Del.) & (ii) Commr. of Central Excise, Nashik : 2016 (339) ELT 585 (Tri.-Mum.).

5. By following the earlier decisions (supra) of the Hon'ble Supreme Court and this Tribunal, we set aside the impugned order and allow the appeal.

6. In the result, the appeal filed by the appellant is allowed as stated above.

(Dictated and pronounced in the open court.)

Sd/

(V.Padmanabhan)
Member (Technical)

Sd/

(Justice Dr. Satish Chandra)
President

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