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

Ex.Appeal No.717/09

(Arising out of Order-in-Original No.16/Commr./CE/Kol-IV/2009 dt.31.08.2009 passed by Commissioner of Central Excise, Kol.IV)

Commr. of Central Excise, Kol.IV

Applicant (s)/Appellant (s)

Vs.

M/s Xenitis Infotech Ltd.

Respondent (s)

Appearance:

Shri D. Halder, Asstt. Commr. (AR) for the Revenue (s)
None for the Respondent (s)

CORAM:

HON'BLE SHRI P. K. CHOUDHARY, JUDICIAL MEMBER
HON'BLE SHRI BIJAY KUMAR, TECHNICAL MEMBER

Date of Hearing : 14.05.2018
Date of Decision : 14.05.2018

ORDER NO.FO/A/76093/2018

Per Shri P. K. Choudhary :

The present appeal is filed by the Revenue against the Order-in-Original No.16/Commr./CE/Kol-IV/2009 dt.31.08.2009 passed by Commissioner of Central Excise, Kol.IV.

2. When the matter was called, none appeared on behalf of the respondent. With the consent of ld.A.R. for the Revenue, we take up the appeal for final disposal, as the present appeal pertains to an old one.

3. Briefly stated the facts of the case are that the respondent-assessee is engaged in the manufacture of Personal Computer, Laptop, Cabinet, SMPS, Cabinet and SMPS etc.

4. The Revenue is in appeal being aggrieved by the impugned order wherein demand of Rs.1,50,82,049/- and Rs.3,01,641/- was dropped by the adjudicating authority.

5. Heard the ld.A.R. for the Revenue and perused the appeal records.

6. We find that the adjudicating authority has passed the detailed order covering all the issues before him. We find that for want of evidences in respect of allegation brought in the show-cause notice in relation to the transaction of the respondent with M/s Bhagawati Enterprises and M/s S.D.Enterprise, by which complete computers were procured by the respondent and subsequently sold to the intending customers. The said allegations were dropped by the adjudicating authority. The detailed discussion has been made in Paras 7,8,9,10 & 11 of the impugned order. In the absence of the respondent-assessee before this Bench, it would be appropriate that the adjudicating authority should decide the matter afresh after taking into account the points raised by the Revenue in their grounds of appeal. Accordingly, the matter is remitted back to the adjudicating authority to consider the grounds of appeal filed by the Revenue and to pass order in accordance with law. Needless to mention that a reasonable opportunity of hearing be granted to the respondent.

7. In view of the above discussions, the appeal filed by the Revenue is allowed by way of remand.

(Operative part of the order was pronounced in the open Court.)

Sd/	Sd/
(BIJAY KUMAR)	**(P. K. CHOWDHARY)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

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