IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, EASTERN ZONAL BENCH: KOLKATA

Ex.Appeal Nos.58/09 & 76193/14

(Arising out of Order-in-Appeal No.15/Kol.IV/2008 dated 14.11.2008 & 115/Kol.IV/2013 dated 28.11.2013 both passed by the Commissioner of Central Excise (Appeals), Kolkata)

M/s Serampore Belting Works Pvt. Ltd.
Applicant (s)/Appellant (s)

Vs.

CCEx., Kol.IV
Respondent (s)

Appearance:

Shri B. N. Chattopadhyay, Consultant for the Appellant (s)
Shri D. Halder, Asstt.Commr. (AR) for the Revenue

CORAM:

HON'BLE SHRI P.K.CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE SHRI V. PADMANABHAN, MEMBER (TECHNICAL)

Date of Hearing : 23.10.2018
Date of Decision : 23.10.2018

ORDER NO. FO/A/76839-76840/2018

Per Bench :

These two appeals are connected in facts and have been disposed of by this common order.

2. The appellant is engaged in the manufacture of rubber belting falling under CETH No.4010.90. Certain disputes arose regarding dutiability of some of the goods manufactured by them. The disputes cover the period from April, 1993 to February, 1994. During the disputed period, three different show-cause notices were issued. Demand for Central Excise duty was raised by the Department.

Against the order of the original authority, two Central Excise Appeals are involved in this case. The first appeal to the Commissioner (Appeals) was decided vide the order impugned in Ex.Appeal No.58/2009. In this order, the Commissioner (Appeals) remanded the matter to the original authority for denovo decision. In the denovo proceedings, the adjudicating authority finalized the Order-in-Original No.01-03/Joint Commissioner/CE/Kol.IV/Adjn/2010 dated 29.10.2010, in which, he once again ordered for payment of Central Excise duty as raised in the show-cause notices. This order was further challenged before the Commissioner (Appeals) in the second round of litigation, but the Commissioner (Appeals) passed the order impugned in Ex.Appeal No.76193/2014, in which, he dismissed the appeal filed before him for non-compliance of predeposit. Being aggrieved, the appellants have filed the present appeals before the Tribunal.

3. In this connection, we have heard Shri B.N.Chattopadhyay, ld.Consultant for the appellants and Shri D.Halder, ld.D.R. for the Revenue.

4. Both sides agree that the basic issue in both the appeals have not been decided on merit by the ld.Commissioner (Appeals) and hence, the matter is required to be remanded to him for passing order on merit. Predeposit has been made by the appellants on 19.09.2014 and hence, we direct the Commissioner (Appeals) to pass order in denovo proceedings on merit without insisting on any further predeposit. Ex.Appeal No.58/09 has become infuctuous since the issue has again come up in Ex.Appeal No.76193/2014.

5. Since the matter is very old pertaining to the year 2009, the lower appellate authority is directed to finalize the matter expeditiously within a period of eight weeks from the date of receipt of this order. The appellant is advised not to seek any unnecessary adjournment.

(Dictated and pronounced in the open court.)

Sd/	Sd/
(P.K.Choudhary)	**(V.Padmanabhan)**
Member (Judicial)	**Member (Technical)**

mm