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

<u>Ex.Appeal No.288/10</u>

(Arising out of Order-in-Appeal No.05/CE/B-I//2010 dated 29.01.2010 passed by the Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar)

M/s Nicco Corporation Ltd. (Cable Division)
Applicant (s)/Appellant (s)

Vs.

CCEx.,Cus., S.Tax, BBSR I
Respondent (s)

<u>Appearance</u>:

None for the Appellants(s)
Shri A. K. Biswas, Supdt. (AR) for the Revenue

CORAM:

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

<u>Date of Hearing : 29.11.2018</u>
<u>Date of Decision : 29.11.2018</u>

ORDER NO…FO/A/77025/2018

<u>Per Bench :</u>

The present appeal is against the Order-in-Appeal No.05/CE/B-I//2010 dated 29.01.2010.

2. The appellant is a manufacturer of insulated wires and cables. The dispute pertains to clearance made by the appellant to their customer, M/s Sudha Agro Oil & Chemical Industries Ltd., Bilaspur, by claiming the benefit of Notification No.33/2005-CE dated 08.09.2005. The said Notification grants exemption from payment of Excise duty in respect of those goods, which are certified by the designated authority in the Ministry of Non-conventional Energy Sources, New Delhi,

recommending grant of exemption. For the consignment in question, the appellant produced the required certificate for quantity of 100 meters of cables. But the Department found that they cleared the total quantity of 418 meters. Since the certificate as required under the Notification, was available only to the extent of 100 meters, the authorities below have ordered payment of Excise duty on the excess quantity of 318 meters. Penalty also stands imposed equal to the differential duty. This order is under challenged.

3. The appellant has submitted a request letter dated 26.11.2018 praying that the appeal may be disposed of on the basis of records available.

4. Revenue is represented by Shri A. K. Biswas, ld.D.R., who reiterated the findings of the lower authorities. He specifically pointed out the fact that 418 meters of cable was cleared as against the certified quantity of 100 meters. This is not in dispute and as such, he reiterated the view of the lower authorities ordering payment of duty for the balance quantity of 318 meters.

5. We have carefully perused the appeal records as well as Notification No.33/2005-CE dated 08.09.2005. The Notification grants exemption from payment of duty on the goods certified by the authority stipulated in the Notification. In this regard, the required certificate is also on record only for quantity of 100 meters. As such, the excess quantity of 318 meters of cables, will be liable for payment

of duty. We find no infirmity in the findings of the lower authorities and sustain the impugned order.

6. In the result, the appeal is rejected.

(Dictated and pronounced in the open court)

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

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