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

REGIONAL BENCH - COURT NO.2

Excise Appeal No.98 of 2011

(Arising out of Order-in-Appeal No.176/PAT/CEx/Appeal/2010 dated 16.12.2010 passed by Commissioner(Appeals), Customs, Central Excise & Service Tax, Patna..)

M/s. Natraj Engineers Private Limited
(At & post: Sarai, Distt.Vaishali, Bihar.)

...Appellant

VERSUS

Commissioner of Central Exise, Patna

.....Respondent

(C.R. Building, B.C. Patel Path, Patna.)

APPEARANCE

Shri Radha Raman, Advocate for the Appellant (s)
Shri S.S.Chattopadhyay, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)

FINAL ORDER NO. 77307/2023

DATE OF HEARING : 9 October 2023
DATE OF DECISION : 9 October 2023

Per : R. MURALIDHAR :

The appellant has cleared the goods during the period July 1995 to October 1995. For such clearances they have adopted the transaction value for the supplies made to Indian Railways. The Department issued show cause notice on the ground that the appellant has not followed the price as per the Price List approved by the Department on 24.12.1993. In the due course the duty of Rs.2,68,133.89 was confirmed by the lower authorities. Being aggrieved, the appellant is before the Tribunal.

2. The Ld.Counsel for the Appellant submits that during the period in question the clearances were to be made based on the transaction

value and the earlier regime of filing price list was no more in existence. Therefore, he submits that the very basis on which the demand was raised and confirmed is erroneous.

3. The Ld.AR reiterates the findings of the lower authorities.

4. We have gone through the appeal papers and the documentary evidences produced by the Appellant. It is seen that they have supplied the goods to Indian Railways and have realized the amount as per the invoices raised by them. There is no evidence brought in by the Department that they have realized any further amount from the Indian Railways. When the relevant statutory provision called for adoption of transaction value, the Department is in error in holding that the appellant should have followed the Price List which was approved in 1993.

In view of the foregoing, we set aside the impugned order and allow the appeal with consequential relief, if any, as per law.

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

Sd/

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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