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

REGIONAL BENCH - COURT NO.1

Excise Appeal No.90 of 2011

(Arising out of Order-in-Original No.06/CE/Commr./Kol-VI/2010 dated 30.11.2010 passed by Commissioner of Central Excise, Kolkata-VI.)

M/s. Linde India Limited
(P-41, Taratala Road, Kolkata-700088.)

...Appellant

VERSUS

Commissioner of Central Excise, Kolkata-VI

.....Respondent

(GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata.)

WITH

Excise Appeal No.126 of 2011

(Arising out of Order-in-Original No.06/CE/Commr./Kol-VI/2010 dated 30.11.2010 passed by Commissioner of Central Excise, Kolkata-VI.)

Commissioner of Central Excise, Kolkata-VI
(GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata.)

...Appellant

VERSUS

M/s. Linde India Limited

.....Respondent

(P-41, Taratala Road, Kolkata-700088.)

APPEARANCE

Shri Shatanshu Panda & Shri Samrat Das, both Advocates for the Appellant/Assessee

Shri S.S.Chattopadhyay & Shri S. Mukhopadhyay, both Authorized Representatives for the Respondent/Revenue.

CORAM: HON'BLE SHRI ASHOK JINDAL, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)

FINAL ORDER NO. 75870-75871/2024

DATE OF HEARING : 07.05.2024
DATE OF DECISION : 07.05.2024

Per : ASHOK JINDAL :

This is second round of litigation. In the earlier round of litigation this Tribunal has passed the following order :-

> *"5. In view of the foregoing and with the consent of both sides, the impugned order is set aside and the matter is remanded to the original authority for decision on the question of valuation in accordance with CAS-4 and in the light of both the decisions of the Hon'ble Supreme Court cited above. The question of penalty, interest etc. are also kept open for fresh decision. The appeal is allowed by way of remand in the above terms."*

2. In remand proceedings, as the appellant failed to supply unit-wise trial balance to the adjudicating authority then the adjudicating authority adopted the basis for calculation of cost price as per CAS-4 taking the balance sheet of the company itself and dropped certain demands against the appellant and confirmed certain demands against the appellant. Both sides are aggrieved with the said order, therefore, both are in appeal before us.

3. Today, when the matter was called, the Ld.Counsel for the appellant produced unit wise trial balance along with calculation of CAS-4 and it is his submission that if the value of CAS-4 as unit wise is considered then they have paid excess duty. As the unit trial balance was not available with the adjudicating authority during the adjudication, therefore, in the interest of justice, the matter be remanded back to the adjudicating authority to consider the unit trial balance along with CAS-4 arrived at by the appellant which have been produced by the appellant today before us.

4. In view of this, we set aside the impugned order and remand the matter back to the adjudicating authority to arrive at the correct value

of the goods in question cleared to their sister unit. We are keeping all other issues open. As the appellant has claimed that it is revenue neutral situation, adjudicating authority is also directed to consider the said issue at the time of adjudication.

Both the appeals are disposed of by way of remand.

(Dictated and pronounced in the open Court.)

Sd/

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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