

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, WEST ZONAL BENCH AT MUMBAI
COURT NO. IV**

APPEAL NO. C/721/09

(Arising out of Order-in-Appeal No. 351, 352/2008/MCH/A.C./Gr.V-A/07-08 dated 30.12.2008 passed by the Commissioner of Customs (Appeals), Mumbai-I.)

CC (Export), Mumbai

Appellant

Vs.

M/s Vardhaman Acrylic Ltd.

Respondent

Appearance:

Shri Chatru Singh, Assistant Commissioner (AR)
None

for Appellant
for Respondent

CORAM:

HON'BLE SHRI RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE SHRI C J MATHEW, MEMBER (TECHNICAL)

Date of Hearing: 06.02.2018
Date of Decision: 06.02.2018

ORDER NO. A/85441/2018

Per: Ramesh Nair:

This appeal is directed against Order-in-Appeal No. 351, 352/2008/MCH/A.C./Gr.V-A/07-08 dated 30.12.2008 whereby the learned Commissioner (Appeals) set aside the Order-in-Original and remanded the matter for passing a fresh order on the grounds of unjust enrichment. Being aggrieved by the Order-in-Appeal Revenue filed the present appeal.

2. Shri Chatru Singh, learned Assistant Commissioner (A.R.) appearing on behalf of the Revenue at the outset submits that this Tribunal against the same issue in the party's case remanded the matter to the Commissioner (Appeals) vide order No. 201-203/09/CSTB/C-II dated 06.08.2009. He submits that in view of the said Tribunal Order, this matter also should be remanded so that a common order can be passed.

3. None appeared on behalf of the respondent, however the respondent submits a letter enclosing the copy of the said Tribunal's order dated 06.08.2009.

4. On careful consideration of the submissions made by the learned AR and the submission made by the respondent in their letter dated 12.01.2018, we find that against the same impugned order in the party's appeal the matter was remanded to the Commissioner (Appeals) for passing a fresh order. In view of this position the present appeal deserves remand to the Commissioner (Appeals). Accordingly the appeal is disposed of by way of remand to the Commissioner (Appeals) to decide a fresh in terms of this Tribunal order dated 06.08.2009 in party's appeal.

(Operative portion of the order pronounced in open Court)

(C J Mathew)
Member (Technical)

(Ramesh Nair)
Member (Judicial)