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

Appeal No. E/1400/2009,E/258/2010

(Arising out of Order-in-Appeal No. SB/90 & 91/Th-I/09 dt. 11.09.09 passed by the Commissioner (Appeals) Central Excise, Mumbai-I)

Balkrishna Paper Mills Ltd. : **Appellant**

VS

Commissioner of Central Excise, Mumbai-I : **Respondent**

<u>Appearance</u>

Shri Prasad Paranjape Advocate for Appellant

Shri S.J. Sahu, Asstt.Commr. (A.R) for respondent

CORAM:

Hon'ble Shri Ramesh Nair, Member (Judicial)
Hon'ble Shri Raju, Member (Technical)

Date of hearing : 03/04/2018
Date of pronouncement : 13/04/2018

ORDER NO. A/86031-86032/2018

Per : Ramesh Nair

The issue involved in the present case is whether the differential insurance charges charged from the customers on the basis of equalized insurance premium is includible in the assessable value.

2. Shri Prasad Paranajpe, Ld. Counsel appearing on behalf of the appellant submits that the issue is covered by the various judgments given below:

(i) Baroda Electric Meters Ltd. Vs. Collector of Central Excise 1997 (94) ELT 13 (S.C.)

(ii) Neha Powerlines Pvt. Ltd. Vs. Commissioner of Central Excise, Vapi
2009 (245) ELT 816 (Tri.-Ahmd)

(iii) Mercedes-Benz India Pvt. Ltd. Vs. Commissioner of Central Excise, Pune-I
2010 (251) ELT 193 (Tri.-Mum.)

(iv) Mercedez Benz India Pvt. Ltd. Vs. UOI
2010 (252) ELT 168 (Bom.)

(v) Commissioner of C. Ex., Ahmedabad Vs. Gopal Glass Works Pvt. Ltd.
2009 (233) ELT 501 (Tri.-Ahmd.)

(vi) Mercedes Benz India Pvt. Ltd. Vs. Commr. Of C. Ex., Pune-I, 2010 (260) ELT 149 (Tri.-Mumbai)

(vii) Yamuna Motors India Pvt. Ltd. Vs. Commissioner of C. Ex., Noida
2014 (301) ELT 524 (Tri.-Del.).

As regard the dispute that whether the Hon'ble Supreme Court judgment is applicable for the period after 2000 when new Section 4 and valuation Rules came into effect, he submits that the issue has been considered in the case of Mercedes Benz India Pvt. Ltd. Vs. Commr. of C. Ex., Pune-I (supra) and now it is settled that for the period post 1.7.2000 also the differential insurance over and above actual chares to the customer cannot be included in the assessable value.

3. Shri S.J. Sahu Ld. Asstt. Commr. (A.R.) appearing on behalf of the Revenue reiterates the findings of the impugned order. He relied upon the Larger Bench judgment in the case of Commissioner of Central Excise, Mumbai-III Vs. Supreme Petrochem Ltd. 2009 (240) E.L.T 38 (Tri.-LB).

4. We have carefully considered the submissions made by both the sides and perused the records. The limited issue to be decided is that the equalized insurance charges made from the customer of excisable

goods are includible in the assessable value. This issue has been decided by the Hon'ble Supreme Court in the case of Baroda Electric Meters Ltd. (supra) and the issue whether the principles laid down by the Hon'ble Supreme Court in that judgment will be applicable for the period post 1.7.2000 has also been considered by the Tribunal in the case of *Mercedes Benz India Pvt. Ltd. (supra).* Therefore in view of the settled legal position the insurance charges collected from the Customer over and above the actual, on the basis of equalized insurance, shall not be includible in the assessable value. Accordingly, the impugned orders are set aside. The appeals are allowed.

(Pronounced in court on 13/04/2018)

(Raju)	***(Ramesh Nair)***
Member (Technical)	***Member (Judicial)***

SM.