IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: E/87968/2017
CROSS-OBJECTION NO: E/CROSS-85103/2018

[Arising out of Order-in-Appeal No: PK/19-20/Appeal Thane/BW/2017–18 dated 08/09/2017 passed by the Commissioner of GST & Central Excise (Appeals), Thane.]

Commissioner of CGST
Bhiwandi …***Appellant***

versus

V E Commercial Vehicles Ltd ***…Respondent***

Appearance:

Shri D.S. Chauhan, Superintendent (AR) for appellant

Shri Anil Mishra, Advocate for respondent

CORAM:

Hon'ble Shri M V Ravindran, Member (Judicial)

Date of hearing: 20/03/2018
Date of decision: 20/03/2018

ORDER NO: A/86109 / 2018

This appeal is filed by Revenue against Order-in-Appeal No: PK/19-20/Appeal Thane/BW/2017–18 dated 08/09/2017 passed by the Commissioner of GST & Central Excise (Appeals), Thane.

2. Heard both the sides and perused the records.

3. The issue that falls for consideration is regarding duty liability on the scrap generated at the job-worker's premises. It is the case of the Revenue in the show cause notice that respondent is sending inputs for job-working and the scrap generated at the job-worker's premises is not returned and the respondent is required to discharge Central Excise duty on such scrap. Adjudicating authority confirmed the demand raised along with interest and also imposed penalty. The first appellate authority relying upon the decision of the Tribunal in respondent-assessee's own case for earlier period has set aside the order-in-original and allowed the appeal of the respondent.

4. I find that the first appellate authority was correct in following the law which has been decided by the higher judicial forum in respect of the very same issue and in the assessee-respondent's own case. I had also find that the issue came up before the Tribunal in respondent-assessee's own case and has decided in their favour as reported at 2016 (2) TMI 554-CESTAT-MUM by order dated 07/01/2016. I do not find any reason to interfere with such an order passed by the first appellate authority.

5. Accordingly, I hold that the impugned order is correct and legal and does not suffer from any infirmity. Cross-objection filed by the

respondent being in support of the impugned order is also disposed of.

6. Revenue's appeal rejected.

(Dictated in Court)

(M V Ravindran)
Member (Judicial)

**/as*