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

APPEAL NO.E/334 & 335/2010

(Arising out of Order-in-Appeal No.SB/101 & 102/Th-II/2009 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone-I)

Narhari Engineering Works	:	**Appellant**
VS		
Commissioner of Central Excise Thane-II	:	**Respondent**

<u>Appearance</u>

Shri.Prasad Paranjape, Advocate for Appellant
Shri.H.M. Dixit, Asst. Comm. (A.R) for respondent

CORAM:

Hon'ble Shri S K Mohanty, Member (Judicial)
Hon'ble Shri P Anjani Kumar, Member (Technical)

Date of hearing : 24/08/2018
Date of decision : 24/08/2018

ORDER NO. A/87321-87322/2018

Per : Shri S K Mohanty

1. Heard both sides and perused the records.

2. Entitlement of benefit of Notification No.64/95-CE dated 16/05/1995 in respect of electric motors, is the subject matter of the present dispute. Ld. Commissioner (Appeals) vide impugned order has not extended the duty exemption provided under said notification on the ground that the electric motors cannot be considered as stores for consumption on board vessels of Indian Navy.

3. On perusal of the Excise Duty Exemption Certificate dated 10/12/2007 issued by the Controller of Procurement, Ministry of Defence, we find that the disputed goods in question, were purchased by the Ministry of Defence for use on board vessels of Indian Navy. In the said certificate, it has further been certified that the exemption from excise duty is available in accordance with Sl.No.3 of the Central Excise Notification dated 16/03/95 on the goods procured by them from the appellant. In view of the clear provisions of notification and especially in view of the fact that the appellant had complied with the requirements that the disputed goods were used for the intended purpose, we are of the considered opinion that the denial of exemption benefit by the authorities below, as per the notification is not proper and justified. We also find that in an identical situation, in the case of the appellant itself, this Tribunal vide order No.A/86228-86229/2018 dated 09/03/2018 has extended the duty benefit contained in said notification in favour of the appellant.

4. In view of above discussions, we do not find any merit in the impugned orders passed by the Ld. Commissioner (Appeals). Accordingly, we set aside the impugned order and allow the appeal in favour of the appellant.

(Pronounced and dictated in court)

(P Anjani Kumar)
Member (Technical)

(S K Mohanty*)*
Member (Judicial)

PJ