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

APPEAL NO.E/223/2011

(Arising out of Order-in-Appeal No.SB(228)/Th-1/10 dated 14/11/2010 passed by the Commissioner of Central Excise (Appeals), Mumbai)

Esdee Paints Ltd., : **Appellant**

VS

Commissioner of Central Excise : **Respondent**
Mumbai

Appearance

Shri.Raymand C George, Advocate for Appellant
Shri.A.B. Kulgod, Asst. Comm. (A.R) for respondent

CORAM:

Hon'ble Dr. D.M. Misra, Member (Judicial)
Hon'ble Shri P Anjani Kumar, Member (Technical)

Date of hearing : 06/02/2019
Date of decision : 06/02/2019

ORDER NO.A/85357/2019

Per : Dr. D.M. Misra

1. Heard both sides and perused the records.

2. This is an appeal filed against Order-in-Appeal No.SB(228)/Th-1/10 dated 14/11/2010 passed by the Commissioner of Central Excise (Appeals), Mumbai.

3. The short issue involved in the present appeal is whether freight charges incurred in delivery of the manufactured finished goods at the buyer's premises is includable in the assessable value considering the "place of removal" as the "place of delivery", that is, at the buyers' premises. The learned Advocate submits that their sale is ex-factory basis and on the request of the buyer it is delivered at their premises. The freight charges are shown separately on the invoices. It is their contention in view of Rule 5 of Central Excise Valuation Rules, 2000, the freight charges cannot be part of the assessable value. Further, he has submitted that this issue is by the judgement of Hon'ble Supreme Court in the case of *CCE Nagpur Vs. Ispat Industries Ltd., - 2015 (324) ELT 670 (SC).*

4. The learned AR for the Revenue reiterated the findings of learned Commissioner (Appeals).

5. We find that the facts are not in dispute and the issue is no more *res integra* and squarely covered by the judgement of the Hon'ble Supreme Court in the case of Ispat Industries Ltd.'s case (supra). In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any, in accordance with law.

(Pronounced in Court)

(P Anjani Kumar)
Member (Technical)

(D.M. Misra*)*
Member (Judicial)

PJ