

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**MUMBAI**

**WEST ZONAL BENCH**

**Excise Appeal No. 85840 of 2016**

(Arising out of Order-in-Appeal No. CD/12 to 13/M-III/16 dated 22.12.2015 passed by the Commissioner of Central Excise (Appeals), Mumbai II)

**M/s. CEAT Ltd**

RPG House, 463, Dr. Annie Besant Road,  
Worli,  
Mumbai

**.....Appellant**

**Vs.**

**Commissioner of Central Excise,  
Mumbai III**

3rd & 4<sup>th</sup> Floor, Vardaan Centre,  
MIDC, Wagle Indl. Estate  
Thane (West), Mumbai

**.....Respondent**

**APPEARANCE:**

Shri Bharat Raichandani, Advocate for the appellant  
Shri Bidhan Chandra, Addl. Comm.(AR) for the respondent

**CORAM: Hon'ble Mr C J Mathew, Member (Technical)  
Hon'ble Ajay Sharma, Member (Judicial)**

**FINAL ORDER No: A/88345 / 2018**

DATE OF HEARING : 17.12.2018

DATE OF DECISION : 17.12.2018

**PER: C J MATHEW**

In this appeal of M/s Ceat Ltd against order-in-appeal no. CD/12 to 13/M-II/16 dated 22 December 2015 of Commissioner of Central Excise (Appeals), Mumbai Zone II, it is contended by Learned

Counsel for the appellant that the impugned order had failed to take note of their primary submission that the original authority did not offer them an effective hearing and had adjudicated the finalisation of provisional assessment in haste. It is also informed that, against the order of finalisation, Commissioner of Central Excise had also directed filing of an appeal which was allowed by the first appellate authority and thereby, required the computation of the duty liability for each product and for each month as the request for provisional assessment had been sought for product-wise instead of the consignment -wise assessment undertaken by the original authority.

2. The dispute pertains to the finalisation of provisional assessment of 'tyres, tubes and flaps' cleared by the appellant for the replacement market which was operated through their regional sales offices or agencies and wherein the price was subject to various deductions which would not be known at the time of removal from the factory. Accordingly, the jurisdictional divisional authorities were furnished with the relevant information which, according to Learned Counsel, was not taken into account for finalisation and the demand of duty of ₹7,78,04,104 was erroneously confirmed.

3. We have heard Learned Authorised Representative.

4. The appellant claims that the order of finalisation of provisional assessment was issued without hearing them. This has been disputed by the Learned Authorised Representative. It is, however, on record that the appellant had furnished certain documents which the original authority found to be inadequate. It is also seen from the records that first appellate authority had allowed the appeal of Commissioner of Central Excise implying that the computation of duty liability would need to be reworked. The appellant claims that the liability arising from a proper consideration of the discounts and other abatements

had been discharged by them. As the order of the first appellate authority calls for a reconsideration of the computation, it would be appropriate to remand the findings against the appellant also back to the original authority for their submissions and documentation to be taken into consideration.

5. Accordingly, the impugned order is set aside to the extent of quantification of the demand and the entire dispute is restored to the original authority for a fresh decision after compliance with the principles of natural justice.

(Operative part of order pronounced in Court)

**(C J Mathew)**  
**Member (Technical)**

**(Ajay Sharma)**  
**Member (Judicial)**