CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

EXCISE APPEAL NO: 1425 of 2011

[Arising out of Order-in-Appeal No: PKS/54/BEL/2011-12 dated 14th June 2011 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – II.]

Blue Star Ltd
2nd Pokhran Road, Majiwada, Thane West – 400 601 …***Appellant***

versus

Commissioner of Central Excise
Mumbai – III
3rd & 4th Floor, Vardaan Centre, MIDC
Wagle Industrial Estate, Thane West – 400604 ***…Respondent***

APPEARANCE:

None for the appellant

Ms AS Parab, Assistant Para Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE DR SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO: A/87564 / 2019

DATE OF HEARING:	11/04/2019
DATE OF DECISION:	11/04/2019

PER: C J MATHEW

This appeal of M/s Blue Star Ltd lies against order-in-appeal no. PKS/54/BEL/2011-12 dated 14th June 2011 which has upheld the order of the original authority holding them liable to duty of ₹7,11,541 under section 11A of Central Excise Act, 1944, along with appropriate interest under section 11AB of Central Excise Act, 1944, besides imposing penalty of like amount under section 11AC of Central Excise Act, 1944 for not having been compliant with condition appended to serial no. 91 in notification no. 6/2006-CE dated 1st March 2006 which was availed on clearance of 'water cooler chiller screw type' to M/s ABB Ltd in June 2009.

2. None appeared for the appellant. However, with the assistance of Learned Authorized Representative, we have perused the relevant records and submissions.

3. It would appear that the condition prescribed in the exemption notification requires that the goods, supplied against international competitive bidding, is, correspondingly, exempted from duties of customs under relevant notification when imported into India. It would appear that the buyer of the impugned goods intended to use it at Koderma and Durgapur Thermal Power stations of Damodar Valley Corporation. It was alleged that the appellant had imported the inputs required for the manufacture of the final goods on payment of duty and was, therefore, charged with ineligibility for the benefit of notification availed by them.

4. At the stage of arguments for waiver of pre-deposit, it had been submitted before the Tribunal that exemption afforded to supplies procured for ‘mega power projects’, against notification no. 21/2002-Cus dated 1st March 2002, suffices compliance with the condition stipulated in the exemption notification availed by the appellant. It would appear that this aspect has not been considered by the first appellate authority.

5. It would, therefore, be appropriate, in the interests of justice, for ascertainment of compliance thereof for which purpose, we set aside the impugned order and remand the matter back to the first appellate authority to consider the same. Appeal, is accordingly, disposed off.

(Pronounced in the open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(C J Mathew)
Member (Technical)

**/as*