CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 85228 of 2016

(Arising out of Order-in-Original No. PUN-EXCUS-003-COM-01 & 02/15-16 dated 21.11.2015 passed by the Commissioner of Central Excise, Pune-III)

M/s Piaggio Vehicles Pvt. Ltd. **.... Appellant**
E-2 & F-1, Katphal Road,
MIDC Area, Baramati,
Pune, Maharashtra – 413 133

Versus

Commissioner of Central Excise, Pune-III **.... Respondent**
ICE House, 41-A, Sassoon Road,
Opp. Wadia College, Pune – 411 001

APPEARANCE:

Ms. Manasi Patil, Advocate for the Appellant

Shri Ranjan Kumar, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86764/2025

Date of Hearing: 03.11.2025

Date of Decision: 03.11.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Brief facts of the case are that the appellants are engaged *inter alia*, in the manufacture of motor vehicles, falling under Chapters 8703 and 8704 of the First Schedule to the Central Excise Tariff Act, 1985. During the disputed period 2009 to 2014, the appellants had cleared finished products to their customers as per the price indicated in the purchase orders issued by them. In addition to the assessable value declared in the invoices, the appellants had also separately indicated the transit insurance @ 0.25% on the clearance value of the goods from the factory. Out of the transit insurance amount of 0.25% claimed in the invoices, the appellants had actually incurred 0.019% towards cost of transit insurance and the remaining amount was retained by them as a profit earned out of arranging for the

transit insurance service on behalf of their customers. Since the appellants had not considered the actual freight element for determination of the assessable value, the department had proceeded against them for recovery of the differential Central Excise duty liability. In this context, the department has issued the show-cause notices dated 08.09.2014 and 23.03.2015, which culminated into the Order-in-Original dated 21.11.2015 (impugned herein), wherein the learned adjudicating authority has confirmed the Central Excise duty demand of Rs.2,78,76,897/- and Rs.13,32,351/- respectively, along with interest and also imposed penalties amounting to Rs.1,87,95,163/- and Rs.,1,30,000/- respectively, on the appellants. Feeling aggrieved with the impugned order dated 21.11.2015, the appellants have preferred this appeal before the Tribunal.

2. It is an admitted fact on record that the appellants had sold three/four wheeled motor vehicles to their customers on the assessable value declared in the invoices and on such value, appropriate Central Excise duty liability was discharged by them. We have also perused the purchase order dated 28.02.2013 placed on record. The purchase order under title "Vehicle Sale" had specifically mentioned that "*vehicle will be delivered by the company at its factory gate and all expenses incurred in connection with the dispatch of the vehicles shall be to your account*" (buyers). On perusal of the purchase order, it transpires that at the agreed price for sale of goods, the appellants had discharged the Central Excise duty liability, considering such price as the assessable value. Since they only facilitate transportation of the goods and incurred the cost of transit insurance for such purpose, the same, in our considered view, should not be termed as 'additional consideration', for its addition in the assessable value of the goods for payment of Central Excise duty.

3. We find that the issue arising out of the present dispute is no more *res integra*, in view of the judgment delivered by the Hon'ble Supreme Court in the case of *Commissioner of Central Excise, Chennai-II Vs. Aeons Construction Products Ltd. – 2015 (319) E.L.T. 548 (S.C.).* The relevant paragraphs recorded in the said judgment are quoted herein below: -

> *"Admitted fact which has come on record is that the goods which were cleared by the respondent assessee were at the factory gate and were removed at the factory gate. In fact, Commissioner in his order has gone to the extent of observing that sale of the goods in question took place at that stage. Thus, it becomes clear from the aforesaid finding that the ownership for the goods was passed on to the buyer at the time of transfer of the goods at the factory gate. If the transportation work was taken by the assessee, thereafter, at the instance of the buyer and*

deliver the goods at the site, that cannot be a ground for loading the price with the transportation charges.

2. As the property had already changed the hands, we thus do not find any reason to interfere with the impugned order. Accordingly, the appeal is dismissed."

4. Further, on an identical issue, in the case of *M/s Filtra Catalysts & Chemicals Ltd. Vs. Commissioner of Central Excise, Thane-I*, this Bench of the Tribunal vide Final Order No. A/85668/2024 dated 25.06.2024, by relying upon the above judgment of the Hon'ble Supreme Court, has allowed the appeal by setting aside the adjudication order passed by the department.

5. In view of settled position of law as referred above, we do not find any merits in the impugned order, insofar as it has confirmed the adjudged demands on the appellants. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha