CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 88192 of 2018

(Arising out of Order-in-Appeal No. NSK/EXCUS/000/APPL/377/17-18 dated 21.03.2018 passed by the Commissioner (Appeals), Customs, Excise & Service Tax, Nashik)

M/s Kinetic Engineering Ltd .... **Appellant**
Nagar Daund Road, Ahmednagar,
Maharashtra – 414 001.

Versus

Commissioner of CGST and Central Excise, Nashik .... **Respondent**
Kendriya Rajaswa Bhawan, Old Agra Road,
Gadkari Chowk, Nashik, Maharashtra – 422 002.

Appearance:

Shri Rajesh Ostwal, Advocate for the Appellant
Shri Xavier Mascarenhas, 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/85176/2026

Date of Hearing: 27.01.2026
Date of Decision: 27.01.2026

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. Briefly stated, the facts of the case are that the appellants are engaged, *inter alia*, in the manufacture of Two-wheeled motor vehicles and parts thereof. During the disputed period, the appellants used to manufacture the said goods through their three manufacturing plants located at Ahmednagar (Maharashtra), Koregaon (Pune, Maharashtra) & Pithampur (Madhya Pradesh). The appellants had cleared certain vehicle parts manufactured at Ahmednagar plant, on stock transfer basis to Koregaon Plant and Pithampur Plant on payment of central excise duty, by adopting the procedures laid down under Rule 6(b)(ii) of the erstwhile Central Excise Valuation Rules, 1975. However, on the basis of comparable price at which same goods were sold by the appellants to the independent buyers, the Department had determined the value of excisable goods under

Rule 6(b)(i) of Rules of 1975. Since the comparable price is more than the price at which the goods were stock transferred by the appellant to their other units, the Department had confirmed the differential duty liability on the appellants. The Order-in-Original dated 31.03.2017, confirming the adjudged demand on the appellants was challenged by way of filing the appeal before the learned Commissioner (Appeals), Central Excise, Nashik. Vide the impugned order dated 21.03.2018, learned Commissioner (Appeals) has upheld confirmation of the adjudged demand and rejected the appeal filed by the appellants. Feeling aggrieved with the impugned order dated 21.03.2018, the appellants have preferred this appeal before the Tribunal. The appellants have assailed the impugned order mainly on the ground that the show-cause proceedings are barred by limitation of time, inasmuch as on the basis of periodic price list filed by them, the show-cause notice was issued, which is beyond the normal period of one year from the relevant date and that the extended period of limitation cannot be invoked for such initiation of proceedings

3. On examination of the case records, more particularly, the show-cause notice dated 04.05.2002, we find that the Department had acknowledged the fact that based on the price-lists submitted by the appellants, the said notice was issued to the appellants. Since the price-list filed by the appellants is the sole document based on which the show cause proceedings were initiated by the Department, the same should have been confined to normal period of one year as per the provisions contended under Section 11A of the Central Excise Act, 1944. Since the extended period of limitation was invoked and as there was no element of either suppression, or mis-statement, or fraud etc., with an intent to evade payment of Central Excise duty, in our considered view, the show-cause notice dated 04.05.2002 issued for the period April, 1997 to June 2000 should be barred by limitation of time. In other words, initiation of show cause proceedings within the normal period is the rule, which has to be strictly adhered to, in absence of the ingredients itemized in the statute; if non-payment of the duty amount is owing to the reason of intentionally defrauding the government revenue, then in such eventuality, extended period of limitation, which is the exception, can be invoked for effecting the recovery of the short-levy, non-levy or short paid duty etc.

4. Further, we also find that there were judgments by different judicial forums, holding that stock transfer to the own units as well as selling of goods to the independent buyer involves two separate class of buyers, and thus, sell value to the independent buyers cannot be adopted automatically for confirming the demand on the goods stock transferred to other units of the manufacturer.

5. In view of the foregoing discussions, we do not find any merits in the impugned order, insofar as it has upheld confirmation of the adjudged demands by invoking the extended period of limitation. Therefore, the impugned order is set aside and appeal is allowed in favour of the appellants on the ground of limitation.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

Sinha/sj