Commissioner of Central Excise, Chennai Vs. Indcon Structurals (P) Ltd.and Another

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SooperKanoon Citation : sooperkanoon.com/943203

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : Apr-13-2010

Judge : The Honourable Ms. Jyoti Balasundaram, Vice President &Amp; the Honourable Dr. Chittaranjan Satapathy, Technical Member

Appeal No. : Appeal Nos.E/998 of 2003 & E/999 of 2003

Appellant : Commissioner of Central Excise, Chennai

Respondent : indcon Structurals (P) Ltd.and Another

Advocate for Pet/Ap. : Shri C.Dhanasekaran, SDR. Shri P.C.Anand, Consultant.

Judgement :

Per Jyoti Balasundaram

In this case, against Order-in-Original No.21/2002 dt. 22.7.02 passed by the Commissioner of Central Excise, Chennai, M/s.MAPCON Pvt. Ltd. and its officers and M/s.INDCON Structurals Pvt. Ltd. came up in appeal to the Tribunal vide Appeal Nos.E/589 to 591/02 and Revenue filed E/252/2000. The appeals were disposed of by Final Order No.209-212/07 dt. 6.3.07 by way of remand. The relevant portion of the Tribunal s order is reproduced herein below :-

“The direction in Final Order No.1236-1239/1999 passed by this Bench in the batch of appeals filed by the parties was for a de novo adjudication culminating in a speaking order. We find that this direction was not scrupulously followed by learned Commissioner. Order-in-Original No.21/2002 dated 22.07.2002 passed by learned Commissioner pursuant to our remand order (Final Order No.1236-1239/99) did not touch the question whether the assessees were eligible for the benefit of Notification No.8/96-CE (S.No.68.4) in respect of the goods cleared by them during April, 1994 to January, 1998, even though the said question was also liable to be examined afresh and decided upon. A decision on that question will have a bearing on the question whether SSI benefit could be allowed to the assessees inasmuch as this benefit would depend on the aggregate value of clearances of all specified goods, subject to relevant conditions under the SSI Notification. In this view of the matter, we are of the considered view that the learned Commissioner should undertake fresh adjudication on all issues raised by the department and parties in the present appeals, and pass a speaking order after giving the parties an effective opportunity of being heard. It is made clear that the guidelines set out in Final Order No.508-513/2002 as regards determination of composition of goods for the purpose of S.No.68.4 of Notification No.8/96-CE should be followed by the adjudicating authority while dealing with the issue relevant to that Notification.

6. In the result, the impugned orders are set aside and these appeals are allowed by way of remand”.

2. In today’s appeals, the Revenue also seeks remand of the case for reconsideration of various submissions.

3. On hearing both sides, we find that the prayer for remand has already been granted while disposing of appeal No.E/252/2000 of the Revenue and E/589-591/2002 of the assessees. Therefore, the Revenue’s prayer for remand has already been answered by the earlier order of the Tribunal dt. 6.3.2007 and nothing remains for decision in these two appeals, which are accordingly dismissed as infructuous.