Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO. 2

Customs Appeal No. 10955 of 2014-DB
(Arising Out Of OIA-RJT-EXCUS-000-APP-479-13-14 Dated- 31/10/2013 Passed By Commissioner Of Central Excise And Service Tax-RAJKOT)

M/s. Suraj Recyling P. Ltd **........Appellant**
Plot No. 565/566, Gidc, Phase-ii, Dared,
Jamnagar, Gujarat

VERSUS

C.C.E. & S.T.-Rajkot **........Respondent**
Central Excise Bhavan, Race Course
Ring Road...Income Tax Office,
Rajkot, Gujarat-360001.

APPEARANCE:
Shri. Manish Jain, Advocate for the Appellant
Shri. Anand Kumar, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. C.L. MAHAR, MEMBER (TECHNICAL)

Final Order No. A/ 12185 /2023

DATE OF HEARING:25.09.2023
DATE OF DECISION:25.09.2023

SOMESH ARORA

The learned advocate points out that in the said case the wastage norms was fixed by the norms Committee as well as certain wastages were allowed by the office of Development Commissioner. Further, the learned advocate states that with the matter is covered by the decision of Hon'ble High Court in the case of CC vs. Monarch Overseas-20019 (1) TMI 1513 - Guj. High Court

2. Learned AR has not objection if the matter is remanded with suitable directions.

3. We find that in the instant case, certain SION norms were fixed by the norms committee including norms of all wastage etc. However, the Development Commissioner in his jurisdiction and his own power also issued wastage norms including of sludge which is part of the dispute as it arises from the raw material used. We remand the matter to lower authority i.e. Commissioner (Appeals) to consider which of the two norms will prevail while considering so even keep in mind, the decision of Hon'ble High Court and also the process through which norms are fixed, by the norms committee as well as the development Commissioner and whether either has staubry or policy backing. And also in the case of duplication which of the two norms will prevail. He will also consider letter dated 02.05.2011 issued by the development Commissioner while passing his order. He is free to ascertain the position as stated above, if deemed necessary from competent officials of concerned Ministry.

4. The matter is accordingly remanded to the appellate authority and impugned order is set aside.

(Dictated and Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(C. L. MAHAR)
MEMBER (TECHNICAL)

PRACHI