IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL Nos. E/56729 & 60624/2013-EX[DB]

(Arising out of Order-in-Appeal No.207-CE/GZB/2012 dated 27/12/2012 & Order-in-Appeal No. GZB-EXCUS-000-APP-125-13-14 dated 29/08/2013 both passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Ghaziabad)

Commissioner of Central Excise, Ghaziabad **Appellants**

Vs.

M/s Raj Products, Unit-IV **Respondents**

Appearance:

Shri Rajeev Ranjan (Addl. Commr.) AR for Appellant
Shri Pragya Pandey (Advocate) &
Shri Anurag Mishra (Advocate) for Respondents

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 24/07/2018
Date of Decision : 24/07/2018

FINAL ORDER NOs. - **71628-71629/2018**

Per: Ashok Jindal

Revenue is in appeal against the impugned orders. The facts of the case are that the respondents are manufacturer of Pan Masala containing Tobacco. During the period October, 2011, the respondents paid duty in terms of Rule 9 of Pan Masala Packing Machine (Capacity determination & Collection of duty) Rules, 2008. As the factory of the respondents remain closed for the period 18/10/2012 to 01/11/2012, the respondents filed abatement claim in terms of Rule 10 of the said Rule which allow that if the factory is remain closed for continuously 15 days or more, the assessee is entitled for abatement of duty already paid. The Adjudicating Authority rejected abatement claim. In appeal, the learned Commissioner (Appeals) allowed the abatement claim against that order the Revenue is in Appeal vide Appeal No. E/56729/2013-EX[DB]. In compliance to the direction given in the impugned order by the Commissioner (Appeals), the Adjudicating Authority allowed abatement claim to the respondents. The said order was challenged again before the learned Commissioner (Appeals) who affirmed the order of the Adjudicating Authority. Against the said order also, the Revenue is in appeal vide Appeal No. E/60624/2013-EX[DB]. Hence these appeals.

2. Heard the parties. As issue is squarely covered by the decision of this Tribunal in the case of K. P. Pan Products Pvt. Ltd. vs. CCE, Lucknow, 2012 (278) E.L.T. 683 (Tri.-Del.) and the decision of Hon'ble Punjab & Haryana High Court in the case of CCE, Rohtak vs. Kay

Fragrance Pvt. Ltd. 2014 (305) E.L.T. 109 (P & H) wherein it has been held that if the factory remained closed continuously for 15 days, in that circumstances, the assessee is entitled to claim abatement irrespective of the fact the period of closure falls in two months.

3. Therefore, we do not find any infirmity in the impugned orders and the same are upheld. In result, the appeals filed by Revenue are dismissed.

(Dictated & Pronounced in Court)

Sd/-	**Sd/-**
(Anil G. Shakkarwar)	**(Ashok Jindal)**
Member (Technical)	**Member (Judicial)**

Lks