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

APPEAL No.ST/50543/2015-CU[DB], E/71315, 71316, 71317/2018-EX[DB]

S.No.	APPEAL No.	APPELLANT	RESPONDENT	IMPUGNED ORDER No.
1.	ST/50543/2015-CU[DB]	Commissioner, Central Excise & Service Tax, Lucknow	Shri Ambika Chaudhary	Order-In-Original No.14/COMMR/CX/2014-15 dated 15.10.2014 passed by Commissioner, Central Excise & Service Tax, Lucknow.
2.	E/71315/2018-CU[DB]	Commissioner, CGST & Central Excise, Allahabad	Shri B.M. Pathak	Order-In-Original No.14/COMMR/CX/2014-15 dated 15.10.2014 passed by Commissioner, Central Excise & Service Tax, Lucknow.
3.	E/71316/2018-CU[DB]	Commissioner, CGST & Central Excise, Allahabad	Shri Gulab Chand Chaudhary	Order-In-Original No.14/COMMR/CX/2014-15 dated 15.10.2014 passed by Commissioner, Central Excise & Service Tax, Lucknow.
4.	E/71317/2018-CU[DB]	Commissioner, CGST & Central Excise, Allahabad	Shri Kapoor Chaudhary	Order-In-Original No.14/COMMR/CX/2014-15 dated 15.10.2014 passed by Commissioner, Central Excise & Service Tax, Lucknow.

Appearance:

Shri Sandeep Kumar Singh, Deputy Commissioner (AR) & Shri Shiv Pratap Singh, Deputy Commissioner (AR), for Appellants

Absent for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing/ Decision : 17/01/2019

FINAL ORDER NO.**70155-70158 / 2019**

Per: Archana Wadhwa

All the four appeals filed by the Revenue are being disposed of by a common order as they stand filed against the same impugned order passed by learned Commissioner.

2. The learned Commissioner has confirmed demand of duty of Rs.1.12 crores against one Shri Ambika Chaudhary along with imposition of penalty on him but has dropped penal proceedings against Shri Gulab Chand Chaudhary, Shri Kapoor Chaudhary & Shri B.M. Pathak.

3. Being aggrieved with the same, Revenue has initially filed only one appeal by showing the name of respondent as Shri Ambika Chaudhary. However, on being pointed out by the Registry, they have filed further 3 appeals against the other respondents. On being questioned as to why the Revenue has filed appeal against Shri Ambika Chaudhary when the demand stand confirmed against him along with imposition of penalty, learned A.R.

clarifies as they initially filed only one appeal against all the four respondents the name of Shri Ambika Chaudhary was written in first page of appeal, as respondent. However, he clarifies that the Revenue's grievance are against other respondents and as such appeal filed against Shri Ambika Chaudhary may be treated as infructuous.

4. In view of the forgoing, Appeal No.ST/50543/2015-CU[DB] shown as Commissioner of Central Excise Lucknow V/s Shri Ambika Chaudhary is dismissed as infructuous.

5. As against the other respondents, we find that Commissioner has not imposed any penalty on Shri Gulab Chand Chaudhary and Shri Kapoor Chaudhary who were found sitting along with Shri Ambika Chaudhary in the vehicle from where pan masala were recovered. The said person in their initial statement denied any link with the transport of the gutka and submitted they are daily wagers and were travelling with Shri Ambika Chaudhary by taking a lift from him. The Adjudicating Authority has observed that there is no evidence showing any connection of the said two persons with the seized Gutkha. Revenue has not produced any

evidence to the contrary. As such, we find no reasons to interfere in the impugned order of the Commissioner.

6. Similarly, Shri B.M. Pathak is the owner of the vehicle which was sold by him to one Smt. Seema Chaudhary. He also produced the copy of sale document. In the absence of any evidence shown by the Revenue, we agree with the Adjudicating Authority that no penalty is required to be imposed upon him.

7. In view of the forgoing, the appeals filed by the Revenue are rejected.

(Pronounced & Dictated in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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