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

APPEAL No. E/156/2012-EX[DB]

(Arising out of Order-in-Appeal No. 238/CE/ALLD/2011 dated 14/11/2011 passed by Commissioner of Central Excise & Customs (Appeals), Allahabad)

M/s Indian Air Gases Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Allahabad **Respondent**

Appearance:

Shri Utkarsh Malviya, Advocate &
Shri Atul Gupta, Advocate, for Appellant
Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 21/02/2018

FINAL ORDER NO. **71008/2018**

Per: Anil Choudhary

The issue in the present appeal is whether the appellant who is engaged in the manufacture of Dissolved Acetylene Gas, Oxygen Gas & Liquefied Nitrogen, are liable to pay Central Excise duty on Sludge/Calcium Carbide, which gets manufactured by way of waste and/or by-product. The said Sludge/Calcium Carbide manufactured or cleared, etc. without payment of duty.

2. The issue hereinabove has been considered by Hon'ble Supreme Court in the case of Collector *Versus* Oxygen Equipment & Engineering Co. P. Ltd. reported at 2002 (143) ELT A82 (S.C.), wherein it has been held that Sludge arising in the course of manufacture of Acetylene Gas from Calcium Carbide, is not an excisable goods even if it fetches a nominal sale price.

3. By following the above decision, we set aside the impugned order and allow the appeal, accordingly, with consequential relief to the appellant.

(Dictated in Court)

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

Sd/-
(Anil Choudhary)
Member (Judicial)

Ansari