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

APPEAL Nos. E/878, 1077, 1078 & 1081/2012-EX[DB]

(Arising out of Order-in-Original No. 30/COMMR/LKO/CX/2011-12 dated 17/01/2012 passed by Commissioner of Central Excise & Service Tax, Lucknow)

Commissioner of Central Excise, Lucknow **Appellant(s)**

Vs.

M/s Shimla Food & Flavours (in Appeal No. E/878/2012),

Shri Ashok Kumar Gupta (in Appeal No. E/1077/2012),

Shri Swetanshu Dwivedi (in Appeal No. E/1078/2012) **&**

Shri Anil Kumar Gupta (in Appeal No. E/1081/2012) **Respondent(s)**

Appearance:

Shri Sandeep Kumar Singh, Deputy Commissioner (AR) for Appellant
Shri S.K. Pandey, Advocate (in Appeal Nos.E/878,1077-1078/2012), for Respondent

CORAM:

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

Date of Hearing : 06/11/2017
Date of Decision : 06/11/2017

FINAL ORDER NOs. 71107-71110/2018

Per: Anil Choudhary

Heard the parties.

2. We find that vide earlier common order of this Tribunal, impugned Orders-in-Original No.30/Commr/Lko/CX/2011-12 dated 17.01.2012, 31/Commr/Lko/CX/2011-12 dated 24.01.2012 & Others passed by Commissioner of Central Excise, Lucknow, were set aside vide Final Order No.55481-

55501/2013 being order dated 23 January, 2013 with respect to M/s Anand Sales, M/s Shimla Food and Flavours & Others, in view of a common Adjudicating Authority appointed by the CBEC vide their Order No. 1/2012-CE dated 08 February, 2012 appointed Commissioner (Special Adjudication, Central Excise, New Delhi) as common adjudicator in respect of the show cause notice (s). Upon consent of the parties, this Tribunal allowed the appeal by way of remand setting aside the impugned order, both in assessee and as well as Revenue appeals and remanded the matter with direction to place the matters before the common adjudicator already appointed, to deal with the matters arising out of same set of investigations. Further, both sides agree that some of the SCNs are also the subject matter of present appeals. This Tribunal further made it clear that it have not gone into the merits of the appeals and have not expressed any opinion on the same.

3. In the present appeals by Revenue, we find that Shimla Food & Flavours and Anand Sales were already parties in the earlier order and further Shri Ashok Kumar Gupta and Shri Anil Kumar Gupta are the partners of Shimla Food & Flavours and Shri Swetanshu Dwivedi is the employee of Anand Sales. Accordingly, these appeals are also allowed by way of remand, in terms of the earlier final order of this Tribunal mentioned hereinabove. Accordingly, we set aside

the impugned order and remand the matter to the Commissioner (Special Adjudication, Central Excise, New Delhi).

4. Accordingly, these appeals are allowed by way of remand.

(Dictated and pronounced in Court)

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

Sd/-
(Anil Choudhary)
Member (Judicial)

Ankit