IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

E/70442/2018-EX[SM]

(Arising out of Order-in-Appeal No.180-181/CE/Alld/2018 dated 21.03.2018 passed by Commr.(Appeals) of CGST & Central Excise, Allahabad.)

Visakha Industries Ltd.

…APPELLANT(S)

VERSUS

Commissioner of Central Excise & Service Tax, Allahabad

RESPONDENT (S)

APPEARANCE
Shri T.K.Srivastava (Advocate) for the Appellant (s)
Shri Pawan Kumar Singh (Supdt.) (AR) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)

DATE OF HEARING/DATE OF DECISION 11.07.2018

FINAL ORDER NO………………………………………………….

Per Mrs.Archana Wadhwa :

After hearing both sides I find that the appellants are engaged in the manufacture of asbestos sheets and on account of the discount being offered to their buyers, the assessments were kept provisional. On finalization of the said assessments, it was found that the appellant had paid excise duties. They claimed refund of the same, which was rejected by the original adjudicating authority on the ground of unjust enrichment. The said order of the original adjudicating authority stands upheld by Commissioner(Appeals) and hence the present appeal.

2. It is the contention of the ld.Advocate that they have subsequently issued credit notes to their customers and as such have satisfied that there was no unjust enrichment. He also draws my

attention to the earlier orders of Commissioner(Appeals) vide which refunds were allowed to them and the Revenue's appeals against such orders were rejected by the Tribunal in their own case only. As such he submits that the issue has attained finality and in the light of the fact that credit notes have been issued by them, the refunds have to be sanctioned to them.

3. I find that though the appellants have produced the above decision of the Tribunal before the original adjudicating authority, but the same have not been applied by the adjudicating authority without any reason. As such I deem it fit to set aside the impugned orders and remand the matter to the original adjudicating authority for fresh decision in the light of the Tribunal's judgements in the same assessee's case.

4. Ld.Advocate submits that the refunds are of the year 2010-11 onwards and a lot of time has already passed.

5. In view of the above statement of the ld.Advocate, I direct the adjudicating authority to re-decide the matter as quickly as possible and preferably within a period of 3(three) months from today. Appeal is disposed of in above manner.

(Dictated and pronounced in the open Court.)

Sd/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

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