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

APPEAL No. E/70526/2016-EX[DB]

(Arising out of Order-in-Appeal No. MRT/EXCUS/000/APPL-I/525 & 526/2015-16 dated 24/02/2016 passed by Commissioner of Central Excise (Appeals-I), Meerut)

Commissioner of Customs, Central Excise
& Service Tax, Meerut **Appellant**

Vs.

M/s Tehri Pulp & Paper Mills Pvt. Ltd. **Respondent**

Appearance:

Shri Pawan Kumar Singh (Supdt.) AR for Appellant
Shri Aalok Arora (Advocate) for Respondent

CORAM:

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

Date of Hearing : 26/11/2018
Date of Decision : 26/11/2018

FINAL ORDER NO. - **72725/2018**

Per: Archana Wadhwa

Being aggrieved with the order passed by Commissioner (Appeals), vide which he has allowed two appeals of the assessee, Revenue has filed one present appeal.

2. The perliminary objection of the learned advocate appearing for the respondent is that two different show

cause notices involving service tax of Rs.39,99,249/- and of Rs.11,39,399/- were issued to them. The Additional Commissioner passed one order confirming the demand raised in both the show cause notices. Aggrieved with the same the appellant filed two appeals before Commissioner (Appeals) and the Appellate Authority vide its common order disposed of both the appeals by allowing the same. As such, he submits that Revenue ought to have filed two separate appeals.

3. Learned A.R. appearing for the Revenue, submits that the present appeal may be considered as two different appeals by giving number A and B to the same appeal number. Further, he fairly agrees as one of the appeals' amount would be of Rs.11,39,399/-, the same is liable to be dismissed under Litigation Policy. As regards the second appeal involving service tax of Rs.39,99,249/-, he placed before us his arguments on merits.

4. We treat the one appeal as having been filed against the order involving amount of Rs.39,99,249/-. The issue is as to whether the assessee is entitled to the Cenvat credit of service tax paid on the commission paid to the consignment agents. The Lower Authorities by relying

upon precedent decision, extended the benefit to the respondent.

5. We find that the issue is no more *res integra* and stands settled by various decisions. Reference can be made to the decisions in the case of Essar Steel India Ltd. vs. CCE & ST, Surat-I reported in 2016 (335) E.L.T. 660 (Tri.-Ahmd.), Final Order No.A/71064-71073/2017-SM[BR] dated 05/09/2017 in the matter of CCE, Meerut-II vs. Dwarikesh Sugar Industries Ltd. and CCE & ST, Meerut vs. DSM Sugar reported in 2018-TIOL-962-CESTAT-ALL. It stands held in the above decisions that tax paid on the commission for sale of assessee's final products are inputs services and credit is available in respect of the same. As such, we find no merits in the Revenue's appeal. The same is accordingly rejected.

(Dictated & Pronounced in Court)

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

Sd/-
(Archana Wadhwa)
Member (Judicial)

Lks