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

APPEAL No. E/70297 & 70318/2016-EX[DB]

(Arising out of Order-in-Appeal No. 139 to 142/CE/ALLD/2015 dated 15/12/2015 passed by Commissioner, Customs, Central Excise & Service Tax (Appeals), Allahabad)

M/s Annakut Biscuit Co. Pvt. Ltd.

(in Appeal No. E/70297/2016) **&**

M/s Rama Krishna Bakers Pvt. Ltd.

(in Appeal No. E/70318/2016) **Appellant(s)**

Vs.

Commissioner of Central Excise, Kanpur **Respondent(s)**

Appearance:

Absent on Call for Appellant(s)
Shri Sandeep Kumar Singh (Deputy Commissioner) AR for Respondent(s)

CORAM:

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

Date of Hearing : 27/11/2018
Date of Decision : 27/11/2018

FINAL ORDER NOs **72708-72709 / 2018**

Per: Archana Wadhwa

Both the appeals are being disposed of by a common order as they arise out of the same impugned order of Commissioner (Appeals) and involve the same dispute.

2. The appellants are engaged in the manufacture of edible biscuits and the dispute in the present appeals relate to the

marketability and excisibility of “cream mix” emerging in the assessees’ factory and being used captively in the manufacture of exempted biscuits.

3. We note that the said issue stands decided by the Tribunal vide its Final Order Nos.70838-70840/2018 dated 02.05.2018 in the case of M/s Bhagwati Foods Private Limited vs. Commissioner of Customs, Central Excise, Lucknow & Kanpur. It stands concluded that cream mix is not marketable and hence not excisable.

By following the said order of the Tribunal, we set aside the impugned order and allow both the appeals with consequential relief to the appellant, if any

(Dictated and pronounced in Court)

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

Sd/-
(Archana Wadhwa)
Member (Judicial)

Ankit