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

APPEAL No.E/54356/2014-EX[DB]

(Arising out of Order-in-Original No.21/Commissioner/M-II/2014-15 dated 18/07/2014 passed by Commissioner, Customs & Central Excise & Service Tax, Meerut-II)

M/s Advance Impex Pvt. Ltd., **Appellant**

Vs.

Commissioner, Customs & Central Excise, Meerut-II **Respondent**

Appearance:
Absent On Call for Appellants
Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

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

Date of Hearing/ Decision : 08/01/2019

FINAL ORDER NO.**70047 / 2019**

Per: Archana Wadhwa

Nobody is present on behalf of the appellant, accordingly, we have heard learned A.R. and have gone through the impugned order.

2. The appellant short paid duty for the month of March, 2012 by an amount of Rs.11,03,260/-. They finally paid this duty along with interest on 24.01.2013. Since the period of default was beyond the period of one month from the due date, from 06.05.2012 to 23.01.2013, the provisions of Rule 8 (3A) would become applicable and during this period, the appellant were required to pay the duty on the goods cleared consignment wise and without utilizing the CENVAT Credit.

Since during this period, the appellant paid the duty of Rs.1,39,06,412/- by utilizing CENVAT Credit, the Commissioner after issuance of show cause notice, vide order-in-original dated 18.07.2014 confirmed the demand of this amount along with interest and imposed penalty of equal amount on them under section 11AC. Against this order of the Commissioner, the appeal has been filed.

3. We find that the issue is no more *res-integra* and this Bench of the Tribunal in the case of M/s Paramount Pesticides Ltd and others vide Final Order No.72509-72515 of 2018 and in the case of M/s Bakewell Agro Ltd vide Final Order No.72503-70508/2018 has taken the entire development on the said Rule 8(3A) and has held that payment of duty through CENVAT Credit during the period of default is appropriate and would not call for demand of duty required to be paid through PLA.

4. By following the said decision, we set aside the impugned order and allow the appeal with consequential relief to the appellant, if any.

(Pronounced & Dictated in Court)

Sd/-	Sd/-
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

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