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

APPEAL No. E/70304/2017-EX[SM]

(Arising out of Order-in-Appeal No. NOI/EXCUS/001/APP/349/2014-15 dated 31/01/2015 passed by Commissioner of Customs & Central Excise & (Appeals), Noida)

M/s Ganpati Fibretech Industries **Appellant**

Vs.

Commissioner of Central Excise, Noida **Respondent**

Appearance:

Written Submission for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing & Date of Decision : 12/03/2019

FINAL ORDER NO. **70549/2019**

Per: Archana Wadhwa

On matter being called, no body appeared on behalf of the appellant accordingly I have heard ld. A.R. appeared on behalf of the Revenue and also gone through the written submissions filed by the appellant.

2. I find that the issue relates to payment of duty, during the period of default, through the Cenvat Credit. Revenue entertaining a view that the appellant was required to pay duty in cash, initiated proceedings resulting in passing of the present impugned orders.

3. I find that the issue is no more *res-integra* and stands settled by the Tribunal in the case of M/s Bakewell Agro Ltd. & Others, vide Final Order No. 72503-72508/2018 dated 28/09/2018 had dealt with an identical situation and after taking into account various precedent decisions, has concluded that payment of duty through Cenvat Credit was not violative of the provisions of Rule 8(3A) of the Central Excise Rules, 2002. As such, by following the said decision, I set aside the impugned order and allow the appeal with consequential relief to the appellant. No order as to the costs.

(Dictated in Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Ansari