CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, ALLAHABAD

REGIONAL BENCH : COURT NO.I

Excise Misc. Application No.70061 of 2019 (COD)
(On behalf of Appellant)

&

Excise Appeal No.70080 of 2019

(Arising out of Order-in-Appeal No.MRT/EXCUS/000/APPL-MRT/383/2018-19 dated 26.11.2018 passed by Commissioner(Appeals), Central Goods & Services Tax, Meerut.)

Commissioner of Central Excise & Service Tax, Meerut-i
(Principal Commr. of Central Goods & Services Tax, Commissionerate-Meerut; Opp. CCS University, Mangal Pandey Nagar, Meerut-U.P.))

...Appellant

VERSUS

M/s.Bajaj Hindusthan Sugar Ltd.

.....Respondent

(Unit Budhana/Bhaisana, Distt. Muzaffarnagar (U.P.), Pin 251309)

<u>APPEARANCE</u>

Shri Sandeep Kumar Singh (Dy.Commr.) (A.R.) for the Revenue
Absent for the Respondent

CORAM:

SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

<u>MISC. ORDER NO.70128/2019</u>
<u>FINAL ORDER NO.70916/2019</u>

DATE OF HEARING : 01.05.2019
DATE OF DECISION : 01.05.2019

ANIL G. SHAKKARWAR :

Heard on application for condonation of delay. Shri Sandeep Kumar Singh, learned Dy.Commr. (A.R.) on behalf of the Revenue has submitted that the delay of 6(six) days in filing the appeal before this Tribunal was due to the reason that both the reviewing authorities were holding additional charge. The delay is condoned being on the lower side.

2. Further the respondent is absent. However, since the issue is covered, the appeal was taken up for final disposal.

3. I have heard the learned Departmental Representative on behalf of the Revenue. The respondents were manufacturers of sugar and molasses. They were removing Bagasse and Press Mud. The period covered is from 1st March 2015 to 31st March 2016. In view of the amendment in explanation under sub-rule (1) of Rule 6 of Cenvat Credit Rules, 2004 w.e.f. 01.03.2015 there was an obligation on the part of the manufacturer to pay amount under sub-rule 3 of said Rule 6 at a fixed percentage of the value of non-excisable goods removed when Cenvat Credit on input and input services were availed and such inputs and input services were used in the manufacture of excisable as well as exempted goods including non-excisable goods. Therefore proceedings were initiated against the respondent for recovery of around Rs.44.00 Lakhs. On perusal of record I note that the issue is covered by precedent decision in respondent's own case in respect of their another unit through Final Order No.70801/2019 dated 18.04.2019. It was held in the said Final Order that Press Mud and Bagasse are not arising out of manufacturing activity and the same are agricultural waste and residue and therefore since the said Final Order

is applicable in the present case I uphold the impugned order and reject the appeal filed by Revenue.

(Dictated and pronounced in the open Court.)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

sm