CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Excise Appeal No.70210 of 2019

(Arising out of Order-in-Appeal No.MRT/EXCUS/000/APPL-MRT/433/2018-19 dated 19/12/2018 passed by Commissioner (Appeals), Central Goods & Service Tax, Meerut)

Pr. Commissioner of Central GST, Meerut .....Appellant

VERSUS

M/s Dwarikesh Sugar Industries Ltd. .....Respondent

APPEARANCE:

Shri P.K. Dubey, Authorized Representative for Appellant
Shri Alok Arora, Advocate for Respondent

CORAM :
Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING : 30 May, 2019
DATE OF DECISION : 30 May, 2019

FINAL ORDER NO. **71076 / 2019**

ANIL G. SHAKKARWAR

After hearing both the sides duly represented by learned AR, Shri P.K. Dubey appearing on behalf of the appellant and learned advocate, Shri Alok Arora appearing on behalf of the assessee, I note that the respondent were manufacturing 'Sugar & Molasses'. They were removing bagasse during the period from March 2015 to March 2017. In view of amendment in explanation under Sub-Rule (1) of Rule 6 of Cenvat Credit Rules, 2004 w.e.f. 01 March, 2015 there was an obligation on the part of manufacturer to pay amount under Sub-Rule (3) of Rule 6 of Cenvat Credit Rules at a fixed percentage of the value of non-excisable goods removed when cenvat credit on input and input services were availed and such input and inputs service were used in the manufacture of dutiable excisable goods and exempted goods including non-excisable goods. Therefore, proceedings were initiated against the respondent for recovery of around Rs.26 lakhs. The proceedings culminated in passing of impugned Order-In-Appeal wherein learned Commissioner (Appeals) has relied on Ruling by Hon'ble Supreme Court in the case of Union of India V/s DSCL Sugar Ltd. reported at 2015 (322) E.L.T. 769 (S.C.) and dropped the proceedings. Aggrieved by the said order Revenue is in appeal before this Tribunal.

2. After hearing both the sides and on perusal of record, I note that the issue is no more *res integra* and decided through Final Order of this Tribunal being Final Order No.70801/2019 dated 18 April, 2019. Relying on the ruling by Hon'ble Supreme Court in the said case of M/s DSCL Sugar Ltd. it was held that since bagasse was agriculture waste and residue the same is not covered by the said explanation. Following the precedent decision of this Tribunal, I do not find any merit in the appeal filed by Revenue, therefore, the appeal is dismissed.

(Dictated and Pronounced in open Court)

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

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