CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Excise Appeal No.70895 of 2018

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1941-1942-17-18 dated 27/03/2018 passed by Commissioner (Appeals), Goods & Central Tax, Noida)

M/s RRK Polymers Private Ltd. **.....Appellant**

A-22, Phase-II UPSIDC Industrial

Area, M.G. Road, Hapur

VERSUS

Commissioner of Central Goods & Service Tax,

.....Respondent

GST, Commissionerate

Renu Tower, Sector 62 NOIDA, Distt.-Gautam Nagar (U.P.)

WITH

Excise Appeal No.70885 of 2018

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1941-1942-17-18 dated 27/03/2018 passed by Commissioner (Appeals), Goods & Central Tax, Noida)

Shri Manish Gupta, Director, M/s RRK Polymers Private Ltd. **.....Appellant**

A-22, Phase-II UPSIDC Industrial

Area, M.G. Road, Hapur-201001

VERSUS

Commissioner of Central Goods & Service Tax,

.....Respondent

GST, Commissionerate

Renu Tower, Sector 62 NOIDA, Distt.-Gautam Nagar (U.P.)

<u>APPEARANCE:</u>

Shri Harbir Singh, Advocate for Appellant
Shri Shiv Pratap Singh, Authorized Representative for Respondent

CORAM :
Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)
Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING : 23 May, 2019
DATE OF DECISION : 23 May, 2019

FINAL ORDER NO. **71099-71100 / 2019**

ARCHANA WADHWA

Both the appeals are being disposed of by a common order as they arise out of the same impugned order passed by the Authority below.

2. After hearing both the sides duly represented by learned advocate Shri Harbir Singh appearing for the appellant and learned AR Shri Shiv Pratap Singh appearing for the respondent, we find that M/s RRK Polymers Pvt. Ltd. were engaged in the manufacture of 'Woven Fabric sticks laminated with papers, laminated boxes and corrugated boxes etc.' and during the relevant period were availing the benefit of small scale exemption Notification No.8/2003-CE dated 01 March, 2003.

3. As a result of investigations conducted against them Revenue entertained a view that appellant was not entitled to the benefit of the said notification inasmuch as their total clearance sale for the year 2011-12 to 2015-16 exceeded the eligibility criteria of Rs.1.5 crores. The said allegation was made on the basis of the figures mentioned in the balance sheet.

During the course of the proceedings before the Lower Authorities, the appellants contended that they are also engaged in the activity of trading of goods and the figures as appearing in balance sheet are relatable to the trading activity. However, Commissioner (Appeals) observed that the appellant has not produced any evidences to that effect.

4. Learned advocate appearing for the appellant draws our attention to the appeal memo filed before Commissioner (Appeals) wherein from Para 14 to 16, there is a clear reference to the fact that invoice wise details of clearance of goods stands placed before him along with the copy of the register of the traded goods. In such a scenario the observations made by Commissioner (Appeals) that no documentary evidence was placed before him cannot be appreciated, having been found to be factually incorrect. As such we deem it proper to set aside the impugned order and remand the matter to the Original Adjudicating Authority. We order accordingly.

(Dictated and Pronounced in open Court)

SD/-
(Archana Wadhwa)
Member (Judicial)

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

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