CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Excise Appeal No.70055 of 2017-Division Bench

(Arising out of Order-in-Appeal No. MRT/EXCUS/000/APPL-I/177/2016-17 dated 04/10/2016 passed by Commissioner (Appeals-I) Central Excise, Meerut)

M/s Era Infra Engineering Ltd. .....Appellant

(C-56/41 Sector-62, Noida, U.P.-201301)

VERSUS

Commissioner (Appeals) Central Excise

Appeals-I, Meerut ....Respondent

(University Road, Mangal Pandey Nagar, Meerut-250005)

WITH

Excise Appeal No.70056 of 2017-Division Bench

(Arising out of Order-in-Appeal No. MRT/EXCUS/000/APPL-I/176/2016-17 dated 04/10/2016 passed by Commissioner (Appeals-I) Central Excise, Meerut)

M/s Era Infra Engineering Ltd. .....Appellant

(C-56/41 Sector-62, Noida, U.P.-201301)

VERSUS

Commissioner (Appeals) Central Excise

Appeals-I, Meerut ....Respondent

(University Road, Mangal Pandey Nagar, Meerut-250005)

APPEARANCE:

Absent on Call for the Appellant
Shri Pradeep Kumar Dubey, Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NOS.- 71254-71255 / 2019

Date of Hearing : 01 July, 2019
Date of Decision : 01 July, 2019

PER: ARCHANA WADHWA

On matter being called neither anybody appeared nor is there any adjournment request in spite of the appellant having been issued notice of hearing, well in advance. Accordingly, we have heard learned A.R. appearing for the Revenue and have gone through the impugned order.

2. The dispute in the present appeal relates to the applicability of exemption Notification No.4/2006-CE dated 01/03/2006, which exempts concrete mix, manufactured at the site of construction for use in construction work of such site.

3. As the appellants were manufacturing "Ready Mix Concrete" their claim for exemption under said Notification stands denied by the Lower Authorities on the ground that "Concrete" and "Ready Mix Concrete" cannot be considered to be one and the same item. As the Notification has exempted only "Concrete Mix" and not "Ready Mix Concrete", exemption has been held to be non applicable.

4. We find that the issue is no more *res integra* and stands settled by the Hon'ble Supreme Court in the case of Larsen & Toubro Ltd. vs. Commissioner of Central Excise, Hyderabad 2015 (324) E.L.T. 646 (S.C.), it stands held by the Hon'ble Apex Court that concrete mix and ready mix concrete are two different items and inasmuch as the Notification exempts only concrete mix and not ready mix concrete, benefit cannot be extended.

5. As the issue stands decided by the above referred decision of the Hon'ble Supreme Court, we find no reasons to interfere in the impugned order of Authorities below. Accordingly both the appeals are rejected.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Lks