CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Excise Appeal No.70582 of 2017

(Arising out of Order-in-Appeal No.111-112/CE/Appl/KNP/2007 dated 27/04/2017 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Kanpur)

M/s S.S. Polyfilms Pvt. Ltd. **.....Appellant**

45, Uptron Estate,

Panki –Site-I,Kanpur-208022 (UP)

VERSUS

Commissioner of Central Excise, Kanpur **.....Respondent**

APPEARANCE:

Shri Anil Kumar Dixit, 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 :18 June, 2019
DATE OF DECISION :18 June, 2019

FINAL ORDER NO.**71151 / 2019**

ARCHANA WADHWA

Appellant is engaged in the manufacture of 'Plain Poly Films', which are liable to duty of excise under Chapter 39. There factory was visited by the officers on 20 October, 2010 who conducted verifications. As a result, shortages were found in the stock of the raw material as also the finished goods.

2. Based upon the same, proceedings were initiated against them alleging clandestine removal and removal of their final product proposing confirmation of demand of

duty. The notice culminated into an order passed by the Original Adjudicating Authority, the same was upheld by Commissioner (Appeals) confirming demand of Rs.2,59,351/-(two lakhs fifty nine thousand three hundred fifty one) along with confirmation of interest and imposition of penalty. Hence the present appeal.

3. After hearing both the sides and after going through the impugned order we find that the entire case of Revenue is based upon the shortages detected during the course of visit of the officers. Hon'ble Allahabad High Court in the case of Commissioner of Central Excise, Kanpur V/s Minakshi Castings reported as 2011 (274) E.L.T. 180 (All.) has held that findings of clandestine removal cannot be arrived at on the basis of shortages of finished stock unless there was sufficient evidences to establish such clandestine activity. Inasmuch as in the present case there is no evidence produced by the Revenue, we find no reasons to uphold the impugned order. Accordingly, the same is set aside and appeal is allowed with consequential relief.

(Dictated and Pronounced in open Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

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