CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Excise Appeal No.71015 of 2018

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1907-17-18 dated 26 March 2018 passed by Commissioner(Appeals) of Central Excise, Noida (U.P.))

M/s.Hindustan Coca Cola Beverages Pvt.Ltd.

.....Appellant

(5 KM Stone, Masuri-Gulawthi Road,
PO Dehra, Tehsil-Hapur,
Dist.Ghaziabad, U.P.)

VERSUS

Commissioner of Central Excise & Service Tax, Noida

....Respondent

(C-56/42, Sector-62, Noida (U.P.))

APPEARANCE:

Shri Mrinal Bharat Ram (Advocate) for the Appellant
Shri S.K.Singh, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO.71423/2019

DATE OF HEARING : 19 July 2019
DATE OF DECISION : 19 July 2019

JUSTICE DILIP GUPTA

This appeal at the instance of M/s. Hindustan Coca Cola Beverages Pvt.Ltd. has been filed to assail the order dated 26 March 2018 passed by Commissioner(Appeals).

2. The issue that arises for consideration in this appeal is as to whether the product "Minute Maid Nimbu Fresh" falls under Chapter Heading 2202 9020 or Chapter Heading 2202 1020 of the Central Excise Tariff Act, 1985.

3. This precise issue was referred to a Larger Bench in **M/s.Brindaban Beverages Private Limited vs. Commissioner of**

Customs, Central Excise & Service Tax [Excise Appeal No.50661 of 2015 connected with two other Appeals] and the Larger Bench while answering the reference held that the product "Minute Made Nimbu Fresh" is classifiable under Tariff Item 2202 9020 of the Central Excise Tariff Act, 1985.

4. The Commissioner(Appeals), however, classified it under Tariff Item 2202 1020 as "Lemonade".

5. As the Larger Bench while answering the reference has held that this product is classifiable under Tariff Item No.2202 9020 of the Central Excise Tariff Schedule under the category of "fruit pulp or fruit juice based drinks", it is not possible to sustain the order passed by the Commissioner(Appeals). It is therefore, set aside and the appeal is allowed.

(Dictated and pronounced in open court)

SD/
(JUSTICE DILIP GUPTA)
PRESIDENT

SD/

(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

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