CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>ALLAHABAD</u>

REGIONAL BENCH – COURT NO.I

Excise Appeal No.71258 of 2018

(Arising out of Order-in-Appeal No.NOI-EXCUS-001-APP-1909-17-18 dated 26/03/2018 passed by Commissioner (Appeals), Central Goods & Service Tax, Noida)

M/s Printotech Global Limited **.....Appellant**

(C-22, 23 Hoisery Complex, Phase-II Extn,

Noida-201301)

VERSUS

The Commissioner, Central Goods

& Service Tax, Noida **.....Respondent**

(C-56/42, Sector-62, Noida-201307)

<u>APPEARANCE:</u>

Shri Gaurav Gupta, Advocate for Appellant
Shri Shiv Pratap Singh, Authorized Representative for Respondent

CORAM :
Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)

FINAL ORDER NO. **71502 / 2019**

DATE OF HEARING : 28 June, 2019
DATE OF PRONOUNCEMENT : 01 August, 2019

ARCHANA WADHWA

As per facts on record, appellant is engaged in the manufacture of 'Plastic Tubes' falling under Chapter 39 of the Central Excise Tariff Act. In the month of May 2015, the appellant surrendered its registration and deposited the original registration certificate with the Department. In terms of the provisions of Rule 8, they deposited Central Excise duty electronically for the month of May and October, 2015 total amounting to Rs.24,50,000/- and

Rs.20,70,000/- respectively. However, as the old registration number was not deleted from the system, the payment was made by taking up the said old registration number by mistake.

2. Thereafter the Central Excise Authorities started pressurizing the appellant for deposit of the duties with the correct registration number inspite of the request made by the appellant to adjust deposits already made by them though against the old registration number. The Revenue insisted for fresh deposit which the appellant subsequently made and sought refund for the already wrongly deposited duty.

3. The challenge in the present appeal is only to interest quantification and imposition of penalty. There is no dispute about the factual position that duty in question was duly deposited by the appellant but against the old registration number. The appellant contented that this was rectifiable mistake and Revenue was within their right to use their discretion by rectifying the old registration number with the new one. Reliance stands placed upon various decisions laying down that such rectifiable mistake cannot lead to short payments or delayed payments inviting interest or imposition of penalty.

It is seen that Hon'ble Gujarat High Court in the case of Devang Paper Mills Pvt. Ltd. V/s Union of India reported at 2016 (41) S.T.R. 418 (Guj.) has held that mere mentioning of wrong code in the process cannot result into harsh consequence of entire payment not being recognized as valid. As such, it was held that levy of interest and penalty is not sustainable. The said order stands subsequently followed by the Hon'ble Gujarat High Court in the case of Auro Pumps Pvt. Ltd. V/s Union of India reported at 2017 (353) E.L.T.7 (Guj.).

Though the appellant have referred to and relied upon various other decisions also but by noting that the issue is no more *res integra* and the appellant had already deposited the dues with the Revenue, the confirmation of interest and imposition of penalty upon them is not justifiable. Accordingly, the same is set aside and appeal is allowed to that effect.

(Order Pronounced in the open Court on 01 August, 2019)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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