CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Excise Appeal Nos.572 & 779 of 2012-[SM]

[In Excise Appeal No.779 of 2012]
(Arising out of Order-in-Appeal No. 24 & 25-CE/LKO/2012 dated 24/01/2012 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

M/s Kundan Castings (P) Ltd. **.....Appellant**

(B-52 & 53, UPSIDC, Industrial Area, Malwan, Fatehpur)

VERSUS

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

(Lucknow)

WITH

[In Excise Appeal No.572 of 2012]
(Arising out of Order-in-Appeal No. 24 & 25-CE/LKO/2012 dated 24/01/2012 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

Shri Navin Jain, Managing Director **.....Appellant**

(B-52 & 53, UPSIDC, Industrial Area, Malwan, Fatehpur)

VERSUS

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

(Lucknow)

APPEARANCE:

Shri Atul Gupta, Advocate for the Appellant
Shri Pawan Kumar Singh, Supdt Authorised Representative for the Respondent

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

FINAL ORDER NO-71538-71539 / 2019

DATE OF HEARING : 14 August, 2019
DATE OF DECISION : 14 August, 2019

PER: ANIL G. SHAKKARWAR

Above stated two appeals are taken together for decision, since they are arising out of common impugned Order-in-Appeal.

2. After hearing both the sides duly represented by Shri Atul Gupta learned Advocate appearing on behalf of the appellant and Shri Pawan Kumar Singh learned Authorised Representative appearing on behalf of the revenue and on perusal of record, I note that the learned Commissioner (Appeals) has rejected the appeal before him due to his finding to the effect that the appellant did not comply with the directions of Tribunal through the Tribunal's order dated 23.09.2011 to deposit 50% of the disputed duty, inasmuch as, the appellants have not deposited the required amount through challan but they have deposited the said amount in their Cenvat account and did not comply with the directions.

3. Further, I note that the learned Counsel for the appellant has relied upon the Final Order of this Tribunal bearing No.70829/2018 dated 07.03.2018 in the case of M/s Triveni Glass Ltd. Vs Commissioner of Central Excise, Allahabad wherein it has been held that debit of Cenvat account for pre-deposit is admissible.

4. I, therefore, hold that the appellants have complied with the directions of this Tribunal dated 23.09.2011 and therefore, the impugned order is not sustainable. After setting aside the impugned order, I remand the matter to learned Commissioner (Appeals) for decision on merits.

(Dictated and pronounced in open court)

(Anil G. Shakkarwar)
Member (Technical)

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