CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Excise Appeal No. 70889 of 2018

(Arising out of Order-in-Appeal No.NOI/EXCUS/001/APP/1836/2017-18 dated 16/03/2018 passed by Commissioner (Appeals), Central Tax, Noida)

M/s. Kohinoor Biscuits Products, **.....Appellant**

(D-237, Sector-63, Gautam Buddha Nagar,

Noida, U.P.-201301)

VERSUS

Commissioner of CGST & Central Excise, Noida

.....Respondent

(C-56/43, Sector-62, Noida)

APPEARANCE:

Shri Anuj Agarwal, (Proxy Counsel) for Appellant
Shri Gyanendra Kumar Tripathi, Authorized Representative for Respondent

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

FINAL ORDER NO. 71596 / 2019

DATE OF HEARING :28 August, 2019
DATE OF DECISION : 28 August, 2019

ARCHANA WADHWA

After hearing both the sides duly represented by learned advocate Shri Anuj Agarwal appearing on behalf of the appellant and learned Authorized Representative Shri Gyanendra Kumar Tripathi appearing on behalf of the Revenue, I find that the appellant is engaged in the manufacture of 'Sugar Boiled Confectioneries' for and on behalf of M/s Parley, out of the raw material supplied by them.

2. The dispute in the present appeal relates to availment of cenvat credit of service tax paid on the outward transport of the goods from the appellant's factory to M/s Parley's depots. The Lower Authorities have denied the credit on the ground that M/s Parley, had paid the freight, in which case the appellant would not be entitled to the credit.

3. I find that the issue is no more *res integra* and stands settled in the case of M/s S.G. Snacks India Pvt. Ltd. V/s Commissioner of GST & Central Excise, Madurai vide Final Order No.70920/2019 dated 09 July, 2019. M/s S.G. Snacks India Pvt. Ltd. is another franchise of M/s Parley and in that case also M/s Parley was paying the freight. The Tribunal by relying upon the Hon'ble Supreme Court decision in the case of Commissioner of Customs & Central Excise, Aurangabad V/s M/s Roofit Industries Ltd. reported in 2015 (319) E.L.T. 221 (S.C.) wherein it was held that place of removal will be depot or the buyer's premises, and by taking note of the fact that the freight was paid by M/s Parley on behalf of the assessee as reflected in the invoice allowed the cenvat credit. In the present case also I have examined the invoice where the assessee's name appeared in the same. As such by following the above referred order of the Tribunal I set aside the impugned order and allow the appeal with consequential relief.

(Dictated and Pronounced in open Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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