# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
# ALLAHABAD

REGIONAL BENCH – COURT NO.I

**Excise COD Application No. 70185 of 2019**
(on behalf of the Appellant)
IN
**Excise Appeal No.70265 of 2019**

(Arising out of Order-in-Appeal No. GZB/EXCUS/000/APPL-MRT/09/2017-18 dated 19/04/2018 passed by Commissioner (Appeals), Central Goods & Service Tax, Meerut)

**M/s Bhagwati Packaging** **.....Appellant**

(15/10 & 11, South Side G.T. Road,

Ghaziabad, U.P.)

*VERSUS*

**Commissioner, CGST (Appeals), Meerut** **.....Respondent**

Room No.232, C.G.O. Complex-I,
Kamla Nehru Nagar,
Ghaziabad-201002, U.P.

**APPEARANCE:**

Shri Ashok Kumar Singh (Proxy Counsel) for Appellant
Shri Sandeep Kumar Singh, Authorized Representative for Respondent

**CORAM :**
**Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)**
**Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

**MISCELLANEOUS APPLICATION NO. 70256 / 2019**

**FINAL ORDER NO. 71598 / 2019**

DATE OF HEARING : 19 August, 2019
DATE OF DECISION :19 August, 2019

**ARCHANA WADHWA**

There is a delay of 1(one) day in the present appeal, which is condoned being on the lower side.

2. We further note that Commissioner (Appeals) has rejected the appeal on the sole ground that the same stands filed against a letter dated 12 January, 2017 written by the Assistant Commissioner, Ghaziabad to the appellant and inasmuch as the said letter is not an order appealable before him, the appeal is not maintainable.

3. We have seen the said letter dated 12 January, 2017. The same is in response to the appellant's letter dated 27 December, 2016 addressed to the Superintendent, Central Excise, Division IV, Ghaziabad with a copy to the Assistant Commissioner praying for withdrawing the Revenue's direction to deposit the interest amount in respect of the duties confirmed vide two different orders i.e. Order-in-Appeal No.GZB-EXCUS-000-APP-42-14-15 dated 03 September, 2014 passed by Commissioner (Appeals) as also Order-In-Original No. 40/ADC/CEX/GZB/2015-16 dated 30 September, 2015. While dealing with the said request of the appellant to withdraw the interest confirmation, the Assistant Commissioner has reproduced the relevant para of the said two orders vide which demands were confirmed along with interest. He has accordingly observed that he has no power to set aside the interest confirmed.

4. We fully agree with the above observation of the Assistant Commissioner. If the appellant was aggrieved with the interest confirmed, it was open to him to challenge the said two orders before the higher appellate forum. Once the demand stands confirmed along with interest, the Assistant Commissioner has no powers to withdraw the interest confirmed as requested by the assessee. We also note that the said letter of the Assistant Commissioner is in response to the assessee's request and is in the nature of a clarification. The same is not addressing any dispute

between the appellant and the Revenue and is not in a appealable form order. As such Commissioner (Appeals) has rightly observed that the said letter cannot be challenged by filing an appeal before him.

5. In view of the above, appeal is dismissed. COD Application also gets disposed of.

(Dictated and Pronounced in open Court)

Sd/-
**(Archana Wadhwa)**
**Member (Judicial)**

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

*nihal*