# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

**Excise Appeal No.71297 of 2018-Division Bench**

(Arising out of Order-in-Appeal No. GZB/EXCUS/000/APPL-MRT/163/2018-19 dated 27/06/2018 passed by Commissioner of Central Goods & Services Tax (Appeals), Meerut)

**M/s Processing Engineering Company .....Appellant**

(S-133 & 139, Site-II, Loni Road Industrial Area,

Mohan Nagar, Ghaziabad)

*VERSUS*

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

(Camp Office-Room No.232, CGO Complex-I, Kamla Nehru

Nagar, Ghaziabad-201002)

**APPEARANCE:**

Shri M.B. Mathur, Advocate for the Appellant
Shri Shiv Pratap Singh, Authorised Representative for the Respondent

**CORAM:**

**HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)**
**HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. - 71673 / 2019**

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| Date of Hearing | : | 03 September, 2019 |
| Date of Decision | : | 03 September, 2019 |

**PER: ANIL G. SHAKKARWAR**

After hearing both the sides duly represented by Shri M.B. Mathur learned advocate on behalf of the appellant and Shri Shiv Pratap Singh learned A.R. on behalf of the Revenue, we note that the appellants were manufacturer of Rice Mill Machinery and its Parts. The dispute was about classification of the goods manufactured by the appellant. The dispute was whether the goods cleared by the appellant were classifiable under Chapter heading No.8437 or 8428. Learned counsel for the appellant has submitted that the issue is covered by the decision of this Tribunal in the case of ALPSCO Graintech Pvt. Ltd. vs. Commissioner of Central Excise & Service Tax, Chandigarh-II reported as 2019 (365) E.L.T. 944 (Tri.-Chan.). The said decision of this Tribunal was not available to the learned Commissioner (Appeals) at the relevant time. We also note that the learned Commissioner (Appeals) has remanded the matter to the Original Authority for re-quantification of demand falling within the normal period of limitation. We make the said remand an open remand with a direction to the Original Authority to decide classification afresh by following the decision of this Tribunal in the case of ALPSCO Graintech Pvt. Ltd. vs. Commissioner of Central Excise & Service Tax, Chandigarh-II (supra). In above terms, appeal is allowed by way of remand.

(Dictated and pronounced in open court)

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

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

*Lks*