CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Excise Appeal No.70715 of 2018

(Arising out of Order-in-Appeal No. NOI-EXCUS-002-APPL-1694-17-18 dated 19/02/2018 passed by Commissioner (Appeals) Central Tax, Noida)

M/s DSM Sugar **.....Appellant**

(Meerganj, P.O. Meerganj, Distt.-Bareilly, Uttar Pradesh)

VERSUS

Commissioner (Appeals),

Central Tax, Noida **....Respondent**

(Gautam Budh Nagar)

APPEARANCE:

Shri Ashish Malhotra, Proxy Counsel for the Appellant
Shri Sandeep Kumar 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. - 71848 / 2019

Date of Hearing : 05 November, 2019
Date of Decision : 05 November, 2019

PER: ANIL G. SHAKKARWAR

After rejecting the request for adjournment submitted by the appellant, we have taken up the matter for final disposal. Accordingly, heard the learned A.R. appearing for the Revenue. From the record, we note that the short question involved in the present appeal is as to whether the activity of sale or transfer of export license by the licensee who is engaged in the manufacture of sugar involves any element of service so as to make them liable to pay service tax. We note that Hon'ble

Supreme Court in the case of M/s Vikas Sales Corporation vs. Commissioner of Commercial Taxes reported at 2017 (354) E.L.T. 6 (S.C.) as also in the case of M/s Yasha Overseas vs. Commissioner of Sales Tax reported at 2015 (322) E.L.T. 7 (S.C.) have decided the issue. We also note that the issue stands decided by the Tribunal in the case of M/s Daurala Sugar Works vs. Commissioner of Central Excise & Service Tax, Meerut dated 12/11/2018 vide Final Order No.72819/2018 vide which by following the same decision and also in the case of Vikas Sales Corporation and Yasha Overseas it stands held that sale of right and privileges of export of sugar quota amounts to sale of goods and there is no service involve in the transaction. We therefore set aside the impugned order and allow the appeal.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Lks