CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Excise Miscellaneous Application No.70504 of 2019
(on behalf of Appellant)
In
Excise Appeal No.71159 of 2016

(Arising out of Order-in-Original No.18/Pr. Comm./Noida-I/2016-17 dated 26/09/2016 passed by Principal Commissioner, Central Excise Commissionerate, Noida-I)

M/s Fashion Dezire **.....Appellant**

(B-53, Sector-6, Noida, Uttar Pradesh)

VERSUS

The Principal Commissioner,

Central Excise, Noida-I **.....Respondent**

(C-56/42, Renu Tower Sector 62,

Noida-210301, U.P.)

APPEARANCE:

Shri Nishant Mishra, Advocate for Appellant
Shri Shashi Shekhar, Authorized Representative for Respondent

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

FINAL ORDER NO.70018/2020

MISCELLANEOUS ORDER NO.70004/2020

DATE OF HEARING : 07 January, 2020
DATE OF DECISION : 07 January, 2020

ARCHANA WADHWA

After hearing both the sides on the Miscellaneous Application, it is seen that the appellants were issued show cause notices raising demand of duty of Rs.60 lakhs approx. and around 80 lakhs. The allegations in respect of demand of Rs.60 lakhs were dropped by the Original Adjudicating Authority vide this Final Order No.18/PR-COMM-NOIDA-I-

2016-17 dated 26.09.2016 and confirmed the demand of around 80 lakhs.. It may be observed here that the part of the order dropping the demand was never put to challenge by the Revenue and as such attained finality. However the confirmed of demand to the extent of Rs.80 lakhs was put to challenge by the appellant before Tribunal and vide Final Order No.70946-70947/2019 dated 15.05.2019, the impugned order was set aside and the matter was remanded to the Original Adjudicating Authority for *denovo* decision, in terms of the directions contained in the said order.

2. The learned advocate appearing for the assessee submits that consequent to the said order passed by the Tribunal, they approached the Revenue for settlement of the dispute in terms of SABKA VISHWAS SCHEME. However, Revenue took a view that since the matter stands remanded, the entire dues raised in respect of the show cause notices gets revived and the total tax dues have to be considered as Rs.1.40 crores. The appellant's contention is that since 60 lakhs has already been dropped, with no appeal by the Revenue, the same should not be considered as tax dues. The learned advocate wants a clarification on the said final order to the extent that the same dealt with only an amount of Rs.80 lakhs, which was the disputed amount and as such the matter was remanded to the Original Adjudicating Authority only for 80 lakhs.

3. After hearing the learned A.R. we are of the view that this Tribunal has no jurisdiction to deal with the disputes before the Designated Committee in terms of SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019. However we clarify that vide the said final order, only an amount of Rs.80 lakhs, which was originally confirmed by the Commissioner and was challenged by the appellant was

dealt with. There was no dispute about the dropping of the demand to the extent of 60 lakhs which order of the Original Adjudicating Authority had attained finality in as much as the same was not challenged by the Revenue. As such we hold that vide Final Order No70946-70947/2019 dated 15.05.2019 only an amount of Rs.80 lakhs was set aside and remanded to the Original Adjudicating Authority for fresh decision. The appellants are at liberty to place the said facts and the present order before the Designated Committee.

(Dictated and Pronounced in open Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

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