CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Excise Appeal No.70561 of 2019

(Arising out of Order-in-Appeal No. NOI-EXCUS-001-APP-02-18-19 dated 15/04/2019 passed by Commissioner (Appeals) Central Goods & Services Tax, Noida)

Commissioner of Central Tax, GST &

Central Excise, Gautam Buddh Nagar **.....Appellant**

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

VERSUS

M/s L. H. Sugar Factories Ltd. **....Respondent**

(Civil Lines, District-Pilibhit)

APPEARANCE:

Shri B. K. Jain, Authorised Representative for the Appellant
Shri Kapil Vaish, Chartered Accountant, for the Respondent

CORAM:

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

FINAL ORDER NO.- 70178 / 2020

Date of Hearing : 04 February, 2020
Date of Decision : 04 February, 2020

PER: ARCHANA WADHWA

Being aggrieved with the order passed by Commissioner (Appeals) Revenue has filed the present appeal.

2. As per facts on record, the respondents are engaged in the manufacture of sugar and molasses during the course of manufacture of which press mud and bagasse emerge. During

the period March 2015 to December 2016, the respondents cleared molasses and press mud at nil rate of duty.

3. According to the Revenue, the respondent was required to pay an amount of 6% on the value of clearance of the said goods in terms of Rule 6(3)(i) of the Cenvat Credit Rules, 2004. For the said purposes, the respondents were issued a show cause notice, which culminated into an order passed by the Original Adjudicating Authority, who confirmed the demand alongwith interest and imposition of penalty.

4. The said order of the Original Adjudicating Authority was challenged by the appellant before Commissioner (Appeals) who set aside the same. Hence the present appeal filed by the Revenue.

5. The short issue required to be decided is as to whether the explanations entered in Rule 6(3) w.e.f. 01st March, 2015 would have the effect of the assessee being under a legal obligation to pay duty on the non-excisable goods bagasse and press mud. We note that the explanations were considered by the Tribunal in the case of M/s. Simbhaoli Sugar Ltd. v. Commissioner of Central Excise, Noida vide Final Order No.71567/2018 dated 19.07.218.

6. It was observed that inasmuch as according to Supreme Court's decision in the case of Union of India v. DSCL Sugar Ltd. referred (supra), bagasse has been held to be an agricultural waste or residue, there could be no manufacturing activity. The

press mud has also been held to be a waste and not a manufactured product. As such the amendment made in the provisions of Rule 6 would not have any effect to the facts and circumstances of the present case.

7. Inasmuch as the issue stands decided by the above-referred decision, we find no merits in the Revenue’s stand and accordingly reject their appeal.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Lks