

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD.**

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 52835 of 2015

(Arising out of order-in-original No. 01/COMM/2015-16 dated 07.05.2015 passed by the Commissioner, Central Excise, Noida).

M/s Varun Beverages Limited

Plot No. 2, Surajpur Bypass
Greater Noida, Gautam Budh Nagar (U.P.)

Appellant

VERSUS

Commissioner, Central Excise

Hotel Formule-I
Wagman's Business Park,
Plot No. 3, Knowledge Park-III
Greater Noida (U.P.)

Respondent

APPEARANCE:

Shri Atul Gupta, Advocate for the appellant

Shri Anupam Kumar Tiwari, Authorised Representative for the respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 70253 / 2021

DATE OF HEARING: 03.08.2021

DATE OF DECISION: 10.11.2021

ANIL CHOUDHARY:

Heard both sides.

2. The issue involved in this appeal relates to classification dispute.

3. The appellants manufacture beverages such as 'Nimbooz by 7 UP' and 'Nimbus Masala Soda by 7 UP' and classified them under chapter heading 22029020 (fruit pulp or fruit juice based drinks) of the

First Schedule to the Central Excise Tariff Act, 1985 (CETA in short) . Revenue disputed the classification opining that these these beverages are classified under Chapter Heading 22021020 and not under CTH 22029020, as claimed by the appellant and hence liable to excise duty as Lemonade. The period involved is February, 2009 to December, 2013 and is covered under two successive show cause notices.

4. Similar issue had arisen earlier also in appellant's own case and others before this Tribunal, and vide Final Order Nos. 71374 – 71377/2019 dated 15.07.2019, this Tribunal referred the order to the Larger Bench decision of this Tribunal dated 30.04.2019, - **2019 (29) GSTL 418 (L.B.)** wherein it has been held that these goods under dispute are classifiable under tariff item No. 22029020, which is for category of fruit pulp or fruit juice based drinks.

5. Accordingly, following the ruling of the Larger Bench and Division Bench in appellant's own case, it is held that the demand raised in this appeal is fit to be set aside. We, therefore, allow the appeal by setting aside the impugned order. The appellant is entitled to consequential benefits, in accordance with law.

(Pronounced on 10.11.2021).

Sd/-
(Anil Choudhary)
Member (Judicial)

Sd/-
(P. Anjani Kumar)
Member (Technical)