# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
# CHANDIGARH

COURT NO. 1

## Excise Appeal No. 827 of 2011

(Arising out of Order-in-Appeal No. 501/CE/D-II/2010 dated 13.09.2010 passed by the Commissioner of Central Excise (Appeals), Delhi-II)

DATE OF HEARING : 05.03.2018
DATE OF DECISION : 05.03.2018

**CCE&ST, Panchkula** ….. **Appellant**
(Rep. by Sh. G.S. Dhillon, DR)

VERSUS

**M/s Amartax Industries Ltd.** ..… **Respondents**
(Rep by NONE)

**CORAM** : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
**HON'BLE MR. DEVENDER SINGH, MEMBER (TECHNICAL)**

## FINAL ORDER NO. 60172/2018

## PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the Department against the Order-in-Appeal No. 501/CE/D-II/2010 dated 13.09.2010 passed by the Commissioner of Central Excise (Appeals), Delhi-II, alleging that the abatement has wrongly been given by the Commissioner (Appeals).

2. Heard Shri G.S. Dhillon, learned DR for the Department. None is present for the assessee-Respondents.

3. From the record, it appears that the denial of deemed credit, as stipulated under Notification No. 54/2001-CE(NT) dated 29.06.2001, when duty of excise leviable under the Central Excise Act, 1944 has not been levied or paid or has been short levied or short paid or erroneously refunded by reason of fraud, collusion or any willful mis-statement or suppression of facts or contravention of any provision of the said Central Excise Act or of the rules made thereunder with intent to evade payment of duty, is not the case in the present appeal. In the instant case, under Section 4A of the Central Excise Act, 1944 the benefit of the abatement was denied by the adjudicating authority. However, after examining the document, the Commissioner (Appeals) has allowed the benefit on the ground that the MRP/RSP was mentioned on the products of the assessee-Respondents. When it is so, then we find no reason to interfere with the impugned order and the same is sustained along with the reasons mentioned therein.

4. In the result, the appeal filed by the Revenue is dismissed.

(Dictated & pronounced in the open court)

**(JUSTICE DR. SATISH CHANDRA)**
**PRESIDENT**

**(DEVENDER SINGH)**
**MEMBER (TECHNICAL)**

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