CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Appeal No. E/61601/2018 -[SM]

(Arising out of impugned order No. V(33)/15/CE/Commr.Adj./CHD-II/53/2015 dated 03.06.2016 passed by the Commissioner, CE, Chandigarh-II)

Jindal Drugs Ltd ......**Appellant**
(12th Floor, Bakhtawar, Nariman Point, Mumbai)

VERSUS

Commissioner of C.E., Chandigarh-II ......**Respondent**
(Central Excise House, F-Block, Rishi Nagar,
Ludhiana, Punjab)

WITH

Appeal No. E/61611/2018 -[SM]

(Arising out of Order-in-Original No. V(15)15/CE/Commr.Adj./CHD-II/41/2016/9837 dated 26.09.2018 passed by the Commissioner, CE, Chandigarh)

Aroma Chemicals ......**Appellant**
(801, Yuvraj Residency , Ram Ganga Vihar,
Moradabad, UP 244001)

VERSUS

Commissioner of Chandigarh-I ......**Respondent**
(Plot No. 19, C.R. Building, Sector 17C,
Chandigarh 160017)

<u>APPEARANCE:</u>

Mr. Pawan Kumar and Mr. R.K. Hasija, Advocates for the Appellant

Mr. H. Singh, Authorised Representative for the Respondent

<u>CORAM:</u> HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO. 60467-60468 of 2019

DATE OF HEARING: 01.05.2019
DATE OF DECISION: 01.05.2019

PER ASHOK JINDAL:

The appellants are in appeal against the impugned orders wherein their requests for cross examination have been denied by the learned Commissioner while adjudicating the case.

2. Heard the parties.

3. Considering the fact that the same issue has been decided by this Tribunal in the case of ***CCE, Delhi vs. Kuber Tobacco India Limited - 2016 (338) ELT 113 (Tri. Del.),*** wherein it has been held that in terms of Section 9D of the Central Excise Act, 1944, the adjudicating authority is required to examine in chief the witnesses whose statements have relied and thereafter to make in mind that the statements recorded in examination in chief are correct, thereafter, the adjudicating authority is required to allow the cross examination of the witnesses whose statements have been relied upon and thereafter to adjudicate the matter.

4. Admittedly, in this case, cross examinations sought by the appellants have been denied by the learned Commissioner while adjudicating the matter. Therefore, there is a gross violation of the principle of natural justice as well as the provisions of Section 9(D) the Central Excise Act, 1944. In view of this, I direct the learned Commissioner to allow the cross examination of witnesses whose cross examination sought by the appellants and thereafter to adjudicate the matter.

5. With these terms, the impugned orders are set aside and the appeals are allowed and to be adjudicated as directed hereinabove.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMEBR (JUDICIAL)

RA_Saifi