CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH

Excise Appeal No. 60168 of 2020

[Arising out of Order-in-Appeal No. JNK-EXCUS-APP-238-19-20 dated 22.01.2020 passed by the Commissioner (Appeals) of CE & ST, Jammu]

M/s Jai Beverages Pvt Ltd **......Appellant**
SIDCO Industrial Complex Bari Brahmana, Jammu
Jammu & Kashmir 181133

VERSUS

Commissioner of CE & ST, Jammu & Kashmir **......Respondent**
OB-32, Rail Head Complex, Jammu
Jammu & Kashmir 180012

APPEARANCE:

Present for the Appellant: Mr. B. L. Narasimhan, Advocate,
Ms. Priyanka Singla, Advocate

Present for the Respondent: Ms. Shivani, Authorized Representative

CORAM: HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60964/2021

DATE OF HEARING: 03.12.2021
DATE OF DECISION: 03.12.2021

PER 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 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.

(Operative part of the order pronounced in the court)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

RA_Saifi