IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL SOUTH ZONAL BENCH, CHENNAI

E/CO/23 & 24/2011 and E/182, 186 and 388/2011

(Arising out of Order-in-Appeal No. 2/2011 dated 6.1.2011 and No. 3/2011 dated 11.1.2011 and No. 36/2011 dated 24.5.2011 all passed by the Commissioner of Central Excise (Appeals), Salem)

Commissioner of Central Excise, Salem — Appellant

Vs.

M/s. India Cements Ltd. — Respondent

Appearance

Shri B. Balamurugan, AC (AR) and
Shri P. Anbuchelvan, Supdt. (AR) for the Appellant
Ms. Cynduja Crishnan, Advocate for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **22.12.2017**

Final Order No. 43269-43271/2017

Per Bench

In these Revenue appeals the amount involved are less than Rs.10,00,000/- (Rupees Ten Lakhs only).

1.1 Brief facts are that respondents are manufacturers of cement. During the period 4/2007 to 12/2008, they cleared cement in packaged form, partly for self use and partly to

Customs, Excise & Service Tax Appellate Tribunal industrial / institutional consumers, without affixing the RSP on the packages but paying duty @ specified under Sl. No. 1C of Notification No.4/2006 and 4/2007 r/w third proviso to the Notification. The department was of the view that appellants have to discharge the duty on the clearances of cement for own use or for such buyers will not fall under the category of institutional consumers. The show cause notice issued culminated in confirmation of duty by original authority which was set aside by the first appellate authority. Hence, the department is thus before the Tribunal.

2. The ld. AR Shri P. Anbuchelvan and Shri B. Balamurugan appearing for Revenue reiterated the grounds of appeal.

3. On behalf of assessee, ld. counsel Ms. Cynduja Crishnan submitted that in appeal numbers E/186/2011 and E/388/2011, the cement was used for self-consumption and a small quantity was cleared to institutional buyers. That the issue stands covered by the decision in the case of ACC Ltd. Vs. Commissioner of Central Excise, Coimbatore reported in 2017 (8) TMI 116 CESTAT, Chennai.

4. Heard both sides. The issue whether assessee / respondent is eligible for concessional rate of duty under Notification No. 4/2006 is settled by the decision relied by the counsel for assessee/respondent. Following the same, we find

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no merit in the appeal filed by Revenue. The appeals are dismissed. The cross-objections are also disposed of accordingly.

(Operative portion of the order was pronounced in open court)

(Madhu Mohan Damodhar)
Member (Technical)

(Sulekha Beevi C.S.)
Member (Judicial)

Rex

Customs, Excise & Service Tax Appellate Tribunal

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सहायक पंजीकार / Asst. Registrar
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अपील अधिकारी / (CESTAT)
चेन्नै / CHENNAI
11/01/18