IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Appeal No. E/142/2011 [DB]

[Arising out of Orders in Appeal No. 338 (CB) CE/JPR-II/2010 dated 20.09.2010, passed by Commissioner, Central Excise & Service Tax, Jaipur]

Dinesh Tobacco Industries ….Appellant

vs.

Commissioner of Central Excise & ST., Jaipur ….Respondent

Appearance:

Shri O.P. Agarwal, Chartered Accountant for the Appellant
Shri H.C. Saini, DR for the Respondent

CORAM:
Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing: 09.01.2017

FINAL ORDER NO. 50342 / 2017 [DB]

Mr. Justice (Dr.) Satish Chandra

The present appeal is filed against Order-in-Appeal No. CE/JPR-II/2010 dated 20.09.2010.

2. Brief facts of the case are that during the period under consideration, the appellants were engaged in the manufacture of Pan Masala/Gutkha falling under Chapter 21/24 of Central Excise Tariff Act, 1985. They have opted for payment of duty under compounded levy scheme with effect from 02.01.2008 under Notification No. 38/2007-CE dated 19.12.2007, issued under Rule 15 of Central Excise Rules, 2002, in which the duty was fixed on the basis of number of pouch packing machines installed in their factory premises and fixed the rate of duty, as per packing machine per month, based on retail sale price printed on

the pouches packed by such machines. During the period 02.01.2008 to 31.01.2008, the appellant has also exported the goods and claimed refund of compound duty but the claim of the appellant was not allowed by the lower authorities. Hence, the appellant has preferred the present appeal.

3. With the above background, heard Shri O.P. Agarwal, ld. Consultant appearing for the appellant and Shri H.C. Saini, ld. DR for the Revenue.

4. After hearing both the sides, it appears that the issue in the present case is squarely covered by the earlier decision of the Tribunal in the assessee's own case in Appeal No. E/52/2010 dated 14.01.2013. The Tribunal has remanded the case to the Commissioner for de-novo adjudication. By following the earlier decision of the Tribunal, we set-aside the impugned order and remand the matter back to the Commissioner for de-novo adjudication, in the light of earlier decision (supra), but by providing reasonable opportunity to the appellant. Additional evidences if any, may be admitted as per law. As the case is very old one, it is expected that the Commissioner will decide the case within four months.

5. Appeal disposed of by way of remand.

[Dictated and pronounced in the open Court]

(V. Padmanabhan)
Member (Technical)

(Justice Dr. Satish Chandra)
President

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