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

Excise Appeal No. E/3554/2010-Ex[DB]
[Arising out of Order-In-Original No. 20/Commr/CEX/2010 dated 30.08.2010 passed by CCE Indore]

For approval and signature:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. B. Ravichandran, Member (Technical)

C.C.E. Indore ...Appellant

Vs.

M/s. Kanoria Sugars & Gen. Manufacturing Company Ltd. …Respondent

Appearance:
Ms. Shreya (Advocate) for the Appellant
Mr. G.R. Singh, DR for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr.B. Ravichandran, Member (Technical)

Date of Decision/ Hearing.20.09.2016

<u>Final Order No. 56393 /2016</u>

<u>Per S.K. Mohanty</u>:

Imposition of lesser amount of penalty in the impugned order dated 30.08.2010 is the subject matter of present dispute before the Tribunal. The grievance of Revenue is that since the duty liability was confirmed under the proviso to Section 11 A of the Central Excise Act, 1944 on the ground of suppression, equal amount of penalty was required to be imposed in terms of Rule 25 of the Central Excise Rules, 2002 read with Section 11 AC ibid.

2. Heard both sides and perused the records.

3. The Ld. Commissioner of Central Excise, Indore vide the adjudication order dated 30.08.2010 has confirmed Central Excise Duty of Rs. 56,48,834/- along with interest and imposed penalty of Rs.5,000/- on the Respondent. Feeling aggrieved with the said adjudication order, both the respondent-assessee as well as the Revenue have filed appeal before this Tribunal. Appeal No. E/3423/2010 filed by the Respondent-assessee was disposed of by the Tribunal vide Final Order No. 508/2011-EX dated 13.06. 2011, wherein by setting aside and the adjudication order, the appeal of the respondent was allowed with consequential relief. Since, the Revenue has preferred appeal against the said adjudication order dated 30.08.2010, which is no more in existence, being merged with the Final Order dated 13.06.2011 of this Tribunal, the appeal of Revenue is infractuous and thus, is not maintainable.

4. Therefore, the appeal filed by Revenue is dismissed.

(Operative portion of the order Pronounced in the open court)

(**B. Ravichandran**)
Member(Technical)

(**S. K. Mohanty**)
Member (Judicial)

Neha