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

Service Tax Appeal No. ST/59402, 59494/2013-ST[DB]
[Arising out of Order-In-Appeal No. 58(VC)ST/JPR-2013 dated 05.06.2013 passed by CCE Jaipur-I]
Arising out of Order-In-Appeal No. 41(VC)ST/JPR-2013 dated 17.05.2013 passed by CCE Jaipur-I

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

M/s. Dhawal Dhara Industries ...Appellant
Guru Nanak Cold And General Mills

Vs.

C.C.E. & S.T. –Jaipur-I …Respondent

Appearance:
Ms. Varun Gaba, K V Vikram (Advocate) for the Appellant
Mr. J.P. Singh, Neha Garg (DR) for the Respondent

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

Date of Hearing/ Decision.06.01.2017

Final Order No. 50412-50413 /2017

Per S.K. Mohanty:

Heard both sides and perused the records.

2. The appellant provides milk chilling service to M/s Churu Zila Utpadak Sahakari Sangh Ltd. The Department confirmed the service tax under the taxable category of Business Auxiliary Service.

3. We find that the issue arising out of the present dispute is no more res-integra, in view of the decision of this Tribunal in the case of Vinayak Industries vs CCE & ST, Jaipur-I reported in 2016 (45)

STR 191 (Tri. Del), and Sharma Ice Factory vs Commr. 2015 (37) STR 660 (Tri.), wherein it has been held that the process of chilling of milk is an activity not covered under the definition of Business Auxiliary Service for the purpose of levy of Service Tax. Therefore, we do not find any merits in the impugned orders and accordingly, the same are set aside and the appeals are allowed in favour of the appellants.

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

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

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

Neha