CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 28.03.2017

**Excise Appeal No. 3894 of 2012**
(Arising out of order-in-appeal No. IND/CEX/000/APP/291/12 dated 17/21.09.2012 passed by the Commissioner of Customs & Central Excise, Indore).

M/s Ruchi Soya Industries Limited Appellant

Vs.

CCE, Indore Respondent

Appearance:

Sh. Rajesh Rawal, Advocate for the appellant
Sh. H. C. Saini, AR for the revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Final Order No. 52621/ 2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeal is filed against the order-in-appeal No. IND/CEX/000/APP/291/12 dated 17/21.09.2012 passed by the Commissioner of Customs & Central Excise, Indore.

2. The brief facts of the case are that during the period under consideration (22.5.2006 to 30.09.2010), the appellant was engaged in the manufacture of soya sludge falling under chapter 15.22 of the Central Excise Tariff Act, 1985. It is the case of the department that while manufacturing soya sludge, the excise duty was evaded so after issuing of a show cause notice dated

22.02.2011, duty was demanded. Being aggrieved, the present appeal is filed by the appellant.

3. With this background, we heard Shri Rajesh Rawal, ld. Advocate for the appellant and Sh. H. C. Saini, ld. AR for the Revenue.

4. After hearing both the sides and on perusal of record, we find that the identical issue has came up before the Tribunal in the assessee's own case for previous period (Final Order No. 55562-55563/2016 dated 18.11.2016) where it was observed that-

> "3. *The matter of excisability of the item namely Soya Sludge (also called Soya Gum) has been squarely covered by Tribunal's decision in the case of Commissioner of Central Excise, Indore vs. Ambika Refinery 2013 (296) ELT 249 (Tri. Del.)., where the item has not been found excisable and it has been held that the same is not covered under Chapter 15.07 (presently it is Chapter Heading 15.22) under Central Excise Tariff. When it is so, the subject item is not excisable and the appellants are entitled to the relief sought in the appeal.*
>
> *4. Accordingly, the appeals are allowed with consequential relief*".

5. By following our earlier order (supra), we set-aside the impugned order and allow the appeal.

6. In the result, appeal filed by the appellant is allowed with consequential relief., if any.

(Dictated and pronounced in the open Court).

(Ashok K. Arya)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant