IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV

DATE OF HEARING : 29/05/2017.
DATE OF DECISION : 29/05/2017.

Excise Appeal No. 51301 of 2014

[Arising out of the Order-in-Appeal No. IND/CEX/000/APP/126/ 2013 dated 09/10/2013 passed by The Commissioner (Appeals), Customs, Central Excise & Service Tax, Indore.]

M/s Prestige Feed Mills Ltd. Appellant

Versus

CCE, Indore Respondent

Appearance

None – for the appellant.

Shri H.C. Saini, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri Anil Choudhary, Member (Judicial)**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 53605/2017 Dated : 29/05/2017

Per. B. Ravichandran :-

The appeal is against order dated 09/10/2013 of Commissioner (Appeals), Indore. The appellants are engaged in the manufacture of Refined Soyabean oil and its by-products covered by Central Excise Tariff for duty. During the extraction process of final product, the refined crude oil is stored in tank. In the bottom of the tank, soya tank sludge gets formed. The Revenue entertained a view that such sludge, when cleared for a consideration, is liable to Central Excise duty. Proceedings were initiated against the appellant to demand duty by classifying the said sludge under Central Excise Tariff Heading 15220090. The Original Authority confirmed the duty liability of Rs. 1,81,205/- for the period July 2011 to June 2012 and imposed equal amount of penalty under Section 11AC of the Act. On appeal, vide the impugned order the Commissioner (Appeals) upheld the original order.

2. When the case was called, none present for the appellant. We have heard the learned AR for Revenue and perused the appeal records. The appellants contended that the oil sludge is nothing but impure crude oil with mixture of dust and other impurities and gets accumulated in the tank. The said product is not emerging due to any process of manufacture. When there is no manufacturing process to produce such sludge in terms of Section 2 (f) of the Central Excise Act, 1944, no duty liability arises.

3. We note that similar issue came before the Tribunal on earlier occasions also. In **Ruchi Soya Industries Ltd. vs. CCE & ST, Indore** vide final order No. 52856 of 2017 dated 06/04/2017 and in **Kirti Nutrients Limited vs. CCE, Indore** vide final order No. 52855 of 2017 dated 06/04/2017, the Tribunal held that soya sludge is not an excisable product. Reliance was placed on earlier

decisions of the Tribunal on similar issues. Following the ratio of the earlier decisions, we hold that the soya sludge is not a manufacture item and, as such, is not liable to excise levy. Accordingly, the impugned order is set aside and the appeal is allowed.

(Operative part of the order pronounced in the open court.)

(Anil Choudhary)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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