CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 55796 of 2014

(Arising out of Order-in-Original No. JAI/EXCUS-001-COM-34-14-15 dated 09.09.2014 passed by the Commissioner of Central Excise, Jaipur-I)

DATE OF HEARING : 24.07.2017
DATE OF DECISION : 24.07.2017

M/s Mound Trading Co. Pvt. Ltd. …. Appellants
(Rep by Sh. Jatin Mahajan, Adv.)

VERSUS

CCE, Jaipur-I …. Respondent
(Rep. by Sh. S.K. Bansal, DR)

CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)

FINAL ORDER NO. 55564/2107

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the assessee-Appellants against the Order-in-Original No. JAI/EXCUS-001-COM-34-14-15 dated 09.09.2014 passed by the Commissioner of Central Excise, Jaipur-I.

2. The brief facts of the case are that, the assessee-Appellants were a job manufacturer for M/s Parle Products Limited for manufacturing confectionary items. As per the agreement, the freight was paid by M/s Parle and the Service Tax was paid by the assessee-Appellants. After manufacturing of the product, the same was

delivered in the depot of M/s Parley without any consideration. The assessee-Appellants had availed credit on the Service Tax paid, but the Department disallowed the same. Being aggrieved, the assessee-Appellants have filed the present appeal.

3. With this background, we have heard Shri Jatin Mahajan, learned counsel for the assessee-Appellants and Shri S.K. Bansal, learned DR for the Revenue.

4. After hearing both sides and on perusal of material available on record, it appears that an identical issue has come up before the Tribunal in the case of **M/s Lao More Biscuits Pvt. Ltd. vs CCE, Ahmedabad-II,** which was remanded to the adjudicating authority. On remand, the adjudicating authority vide its order no. 353/2009(Ahd-II)CE/CMC/Commr(A)/Ahd dated 13.10.2009 granted relief by giving the credit on the Service Tax already paid. The Department has filed the appeal before the Tribunal and the Tribunal vide Final Order No. 10793-10797/2016 dated 31.08.2016 has dismissed the same.

5. By following our earlier decision (supra), we find no reason to sustain the impugned order and the same is hereby set aside.

6. In the result, the appeal filed by the assessee-Appellants is allowed.

(Dictated & pronounced in the open court)

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(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

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