CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing: 22.09.2017

Appeal No. E/3677-3680/2012-EX[DB]

[Arising out of the Order-in-Appeal No. 93-96/RDN/CE/JPR-I/2012 dated 30.08.2012, passed by the Commissioner of Central Excise, Jaipur]

M/s. Shree Silica Products Pvt. Ltd. … Appellant

Vs.

C.C.E. Jaipur ... Respondent

Appearance:

Present Shri Jatin Mahajan, Advocate for the appellant
Present Shri H.C. Saini, DR for the respondent

Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Technical Member

FINAL ORDER No. 56991-56994/2017

Per Justice (Dr.) Satish Chandra:

The present appeal is filed against the Order-in-Appeal No. 93-96/2012 dated 30.08.2012.

2. During the period under consideration the appellant was engaged in the manufacturing of the MS Ingots. The appellant was availing the compound levy scheme for not paying the duty. The department has demanded the duty as well as interest and penalty. Being aggrieved, the appellant has filed the present appeal.

3. With this background, we have heard Shri Jatin Mahajan, Advocate for the appellant and Shri H.C. Saini, DR for the respondent.

4. After hearing both the sides and on perusal of the record, it appears that the Hon'ble Supreme Court in the case of ***Bhagwati Steel Rolling Mills Vs. CC 2015 (326) ELT 209 (SC)*** has observed that the Rule 96ZO of Central Excise Rules 1994 is ultra vires. So, penalty and interest cannot be demanded.

5. From the above, it appears that the penalty and interest cannot be demanded but duty is sustainable. Hence, we sustain the duty mentioned in the Order in original. The order is modified accordingly.

6. In the result, appeals are partially allowed.

[Dictated and Pronounced in the open court]

(V. Padmanabhan)
Technical Member

(Justice Dr. Satish Chandra)
President

Bhanu