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

Date of Hearing/Order: 7.11.2017

Appeal No. E/619/2010-SM

(Arising out of Order-in-Appeal No. 74/RPR-1/2009 dated 10.12.2009 passed by Commissioner (Appeals), Central Excise & Customs, Raipur)

Ganesh Bakers Pvt. Ltd. — Appellant

Vs.

CCE, Raipur — Respondent

Appearance

Shri Jatin Mahajan, Advocate - for the appellant

Shri G.R. Singh, D.R. - for the respondent

CORAM: **Hon'ble Mr. Justice (Dr.) Satish Chandra, President**

Final Order No. 57792/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed against the Order-in-Appeal No. 74/2009 dated 10.12.2009. Earlier, the appeal was allowed by the Tribunal vide its Order No. 54269/2015 dated 25.8.2015. The same was assailed by the department before Hon'ble Chhattisgarh High Court who vide its order dated 21.8.2017 has remanded the matter to the Tribunal for fresh adjudication. Hence, again, the appeal is before the Tribunal.

2. On merit, the brief facts are that the assessee appellant during the period (Jan. 2005 to Feb. 2007) was engaged as job manufacturer for M/s Parle Products Pvt. Ltd. for manufacturing of biscuits. As per the agreement, the freight was paid by M/s Parle Products Pvt. Ltd. and the service tax was paid thereupon by the appellant. After manufacturing of the product, the same was delivered in the depot of M/s Parle Products Pvt. Ltd. without any consideration. The assessee - appellant had availed the credit on the service tax paid but the department disallowed the same. Being aggrieved, the assessee appellant has filed the present appeal.

3. With this background, heard Shri Jatin Mahajan and Shri G.R. Singh, the ld. Counsels for the parties.

4. After hearing both the sides and on perusal of record, it appears that the identical issue has come up before the Tribunal in the case of ***M/s Mound Trading Co. Pvt. Ltd. Vs. CCE, Jaipur –I*** (Final Order No. 55564/2017 dated 24.7.2017), where the Tribunal has followed the ratio laid down in the case of ***M/s Lao More Biscuits Pvt. Ltd. Vs. CCE, Ahmedabad-II*** (Final Order No. 10793-10797/2016 dated 31.8.2016) and allowed the relief to the assessee. Finally, the Tribunal has granted relief to the appellant by setting aside the impugned order.

5. Both parties have agreed that the facts and circumstances of the case are identical. When it is so then we by following our earlier order (supra) set aside the impugned order and allowed the claim of the appellant.

6. In the result, appeal filed by the appellant is allowed.

(Dictated & pronounced in open Court)

(Justice Dr. Satish Chandra)
President

RM