CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI.

PRINCIPAL BENCH, COURT NO. II

Excise Appeal No. 51641 of 2018
(Arising out of order in appeal No. 49 (RK)CE/JPR/2017 dated 07.03.2018 passed by the Commissioner (Appeals) and ADG, DGSTI, Jaipur).

Commissioner of Central Goods and Service Tax — **Appellant- Revenue**
" A" Block, Surya Nagar,
Alwar.

Versus

M/s Golden Cashew Phenol — **Respondent-assessee**
Plot No. F-613, RIICO Industrial Area
Khushkhera, Bhiwadi.

APPEARANCE:

Sh. V. B. Jain, Authorised Representative for the Revenue
Sh. Himanshu Bansal, Advocate for the respondent-assessee

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. BIJAY KUMAR, MEMBER (TECHNICAL)

DATE OF HEARING: 05.04.2019
DATE OF DECISION: 05.04.2019

FINAL ORDER NO. 50590/2019

ANIL CHOUDHARY:

The issue in this appeal is whether under the admitted fact that the appellant had reversed the cenvat credit before the issue of show cause notice, in such case whether the show cause notice is validly issued.

2. Brief facts are that the respondent is manufacturer of golden cashew nut shell liquid grade-II. Under Notification No. 1/2011-CE, as amended, they were entitled to clear the finished goods at the concessional rate of 2% advalorum subject to condition that they are not entitled to take cenvat

credit. The appellant had taken registration and started production in June, 2014 and they erroneously took cenvat credit. On being pointed out by Revenue, in the month of April/ May, 2015, they immediately reversed the cenvat credit with interest. Further, they started paying duty in cash and such information was given to the Department by letter dated 30.09.2015. Accordingly, it is urged that the show cause notice is not validly issued.

3. Learned Authorised Representative for the Revenue reiterated the grounds of appeal.

4. Having considered the rival contentions, we hold that in view of the admitted fact that the appellant had reversed the cenvat credit under intimation to Revenue, we find that the show cause notice is not validly issued and is hit by the provisions of Section 11A(S) read with 11(2) of the Act. Accordingly, this appeal by Revenue is dismissed. The respondent-assessee is entitled to consequential relief.

(Dictated and pronounced in open Court).

(Anil Choudhary)
Member (Judicial)

(Bijay Kumar)
Member (Technical)

Pant