CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Excise Appeal Nos. 2224–2225 of 2012

[Arising out of Order-in-Original No. 14/Commissioner/2011-12 dated 28.03.2012 passed by the Commissioner, Central Excise, Meerut–II]

M/s. Parvatiya Plywood Pvt. Ltd.
&
Shri Akhilesh Pratap (MD) of
M/s. Parvatiya Plywood Pvt. Ltd. **...Appellants**
Village Shivlalpur, Ram Nagar
District: Nainital, Uttarakhand

Vs.

Commissioner of Customs,
Central Excise & Service Tax, Meerut–II **...Respondent**
Commissionerate: Meerut–II
Opposite Shaheed Park, Delhi Road Meerut (U.P.)

AND

Excise Appeal Nos. 53042 & 52536 of 2018

[Arising out of Order-in-Appeal No. 74-75/2018 dated 27.03.2018 passed by the Commissioner(Appeals), Central Excise, Customs & Service Tax, Dehradun]

M/s. Parvatiya Plywood Pvt. Ltd. **...Appellant**
Village Shivlalpur, Ram Nagar
District: Nainital, Uttarakhand

Vs.

Assistant Commissioner
Central Excise, Customs & Service Tax **...Respondent**
Division Haldwani, Behind LIC Building
Mishra Kunj, Kathgodam (Nainital)

APPEARANCE:

Shri Aakash Gupta, C.A. for the Appellant

Shri V.B. Jain & Shri P. Juneja, Authorised Representatives for the Respondent

Coram: HON'BLE MR. BIJAY KUMAR, MEMBER (TECHNICAL)
HON'BLE MRS. RACHNA GUPTA, MEMBER (JUDICIAL)

DATE OF HEARING/DECISION: **03.07.2019**

FINAL ORDER No. 50872–50875/2019

BIJAY KUMAR

As per the Order dated 26.09.2018 the cost imposed has been deposited in the Prime Minister National Relief Fund and thus compliance is made. Accordingly, the matter is being taken up for hearing today itself with the consent of the parties.

2. Shri Aakash Gupta, learned Advocate on behalf of the appellant submitted that the issue which pertained to Notification No. 50/2003-CE dated 10.06.2003, has also been assailed in the Writ Petition before the Hon'ble High Court of Uttrakhand. Against the order, dated 11.08.2015 passed by the Hon'ble High Court of Uttrakhand, the assessee-Appellants have filed Special Leave to Appeal (C) No. 239/2016 before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide its order dated 22.09.2017 has granted the leave and the matter is *sub judice*. Both sides have agreed that without the final verdict of the Hon'ble Supreme Court, the present appeal cannot be decided.

3. We also note that the present appeal is against the order passed by the Joint Commissioner of Central Excise, and the appeal against such order lies with Commissioner (Appeals) in terms of Section 35 of Central Excise Act, 1944 only not before the Tribunal.

4. In view of the above, liberty is granted to the assessee-Appellants to re-agitate the issue after having the final verdict from the Hon'ble Supreme Court (supra) within the prescribed time, if advised so.

5. With the aforesaid liberty, the appeal stands disposed of.

[Dictated and pronounced in the open Court]

(BIJAY KUMAR)
MEMBER (TECHNICAL)

(RACHNA GUPTA)
MEMBER (JUDICIAL)

DJ