CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Division Bench
Court – I

APPEAL No. E/981/2009
*(Arising out of **Order-in-Original** No. 11/2009-(C.E)-Commr., dated 31.07.2009 passed by CCCE, Hyderabad-I)*

GLOSTER CABLES LIMITED	..	APPELLANTS
	Vs	
CCE, C&ST, Hyderabad-I	..	RESPONDENTS

Appearance
Shri P. Rosi Reddy, Advocate for the Appellant.

Shri A.V.L.N. Chary, Superintendent/AR for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)

Hon'ble Mr. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 01.11.2018
Date of Decision: 01.11.2018

FINAL ORDER No. A/31461/2018

[Order per: Mr. M.V. Ravindran)

1. This appeal is directed against Order-in-Original No. 11/2009-(C.E)-Commr., dated 31.07.2009.

2. Heard both sides and perused the records.

3. On perusal of records, it transpires that the issue is regarding demand of an amount equivalent to 10% of the value of goods cleared, claiming exemption under notification No. 50/2008-CE(NT), dated 31.12.2008. Appellant herein is the manufacturer of industrial cables and cleared the same to SEZ units and developers during the period in question, claiming not to pay central excise duty on the ground that the goods have been cleared to SEZ unit developers. Revenue issued show cause notice stating that once the goods are cleared to SEZ unit developers, they are exempted with SEZ unit developers and not SEZ. Accordingly, demands were confirmed to an extent of 10% of the value of goods cleared to SEZ unit developers.

4. We find that the issue is no more *res-integra* as identical issue of the very same appellant was before the Tribunal in appeal No. E/1942/2010 and was disposed of by Final Order No. A/30665/2016, dated 11.08.2016 holding that the ratio of the judgment of the Tribunal in the case of Sujana Metal Products Limited vs. CCE, Hyderabad [2011(273)E.L.T 112 (Tri.-Bang.) would cover the issue. Ld. Counsel submits that Revenue filed an appeal against the said final order, before Hon'ble High Court of Andhra Pradesh and Telangana and the same was dismissed by Hon'ble High Court as reported at [2016(342)E.L.T. A115(AP)] and we find it so. Since the issue is already settled and in favor of the appellant, we find that the impugned order is to be set aside and we do so.

5. Impugned order is set aside and appeal is allowed.

(Dictated and Pronounced in open Court on 01.11.2018)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

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