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

Appeal No. E/644/2011

(Arising out of Order-in-Appeal No. 54/2010 (H-III) (D) (CE) dated 30.11.2010 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals-III), Hyderabad)

Commissioner of Customs, Central Excise &
Service Tax, Hyderabad-III **.....Appellant(s)**

Vs.

M/s Amareswari Cements Ltd., **.....Respondent(s)**

Appeal No. E/649/2011

(Arising out of Order-in-Appeal No. 56/2010 (H-III) (D) (CE) dated 30.11.2010 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals-III), Hyderabad)

Commissioner of Customs, Central Excise &
Service Tax, Hyderabad-III **.....Appellant(s)**

Vs.

Rain Commodities Ltd., **.....Respondent(s)**

Appearance
Shri C. Mallikarjun Reddy, Superintendent (AR) for the Assessee.
Shri Y. Sreenivasa Reddy, Advocate for the Respondent.

Coram:
Hon’ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)
Hon’ble Mr. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 04/01/2019
Date of Decision: 04/01/2019

FINAL ORDER No. A/30036-30037/2019

[Order per: M.V. Ravindran]

These two appeals are filed by the Revenue against Orders-in-Appeal No. 54 & 56/2010 (H-III) (D) (CE) dated 30.11.2010 since both appeals are raising some question and they are being disposed of by a common order.

2. Heard both sides and perused the records.

3. The issue involved in this case is regarding refund of the amount paid "under protest" by the appellant with the authorities. Appellant herein had during the period in question 2007-2008 on insistence of the Revenue, paid the amount of duty on the cement which they have cleared to Andhra Pradesh State Housing Corporation Ltd., (APSHCL) claiming exemption. Finally, the matter was settled by the Tribunal holding that cement cleared in bags to various institutions if MRP is indicated on bags, the benefit of notification No. 04/2006-CE is available. The Adjudicating Authority as well as the First Appellate Authority in the case in hand, following the said law has held that, respondent is eligible for the refund of the duty involved which has been paid under protest.

4. We find no reason to interfere in such a detailed and well reasoned order and the self same issue has been decided by the Bench in the case of *Commissioner Vs. Sagar Cement Ltd.,* [2010 (256) ELT 616] which has been not set aside till date, but appeals are pending

before the Apex Court. Respectfully we following the ratio in the case of Sagar Cements Ltd., the impugned orders are upheld and it is held they do not require any interference. The impugned orders are upheld and the appeals are rejected.

(Order pronounced & dictated in open court)

P. VENKATA SUBBA RAO	**M.V. RAVINDRAN**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Lakshmi….