IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EAST ZONAL BENCH AT KOLKATA

APPEAL NOS: E/370 & 371/2008

[Arising out of Order-in-Original No: 18-27/2007 dated 31st October 2007 passed by the Commissioner of Central Excise, Shillong.]

RC Tobacco Pvt Ltd
Assam Cigarette Co (P) Ltd é ***Appellants***

versus

Commissioner of Central Excise
Shillong ***…Respondent***

Appearance:

None for appellants

Shri A Roy, Superintendent (AR) for respondent

CORAM:

Hon'ble Shri P K Choudhary, Member (Judicial)
Hon'ble Shri C J Mathew, Member (Technical)

Date of hearing: 12/03/2018
Date of decision: 12/03/2018

ORDER NO: _FO/A/76772-76773/2018

Per: C J Mathew

These two appeals are against common order-in-original no. 18-27/2007 dated 31st October 2007 of Commissioner of Central Excise, Shillong pertain to recovery of refunds under notification no. 32/99-CE dated 8th July 1999 granted erroneously to cigarette manufacturers. The proceedings culminated in recovery of ` 14,08,88,640 for the period April 2000 to June 2000 and `13,20,33,605 for the period from February 2000 to June 2000 from M/s RC Tobacco Pvt Ltd and from M/s Assam Cigarette Co (P) Ltd respectively. Besides, interest was also directed to be recovered.

2. We have heard Learned Authorised Representative. None appeared for the appellants.

3. It is observed from the grounds of appeal that both the appellants had discharged the duty liability along with applicable interest.

4. In view of the law settled by Hon'ble Supreme Court in *RC Tobacco (P) Ltd and another v. Union of India & another [2005 (188) ELT 129 (SC)]* upholding the validity of exclusion of cigarettes from area-based exemption, the subsequent decision of Hon'ble High Court of Guwahati in *Assam Cigarette Company Pvt Ltd v. Union of India [2015 (328) ELT 85 (Gau)]* upholding the validity of demand for interest in accordance with the principle of restitution, and the discharge of the liability to duty and interest, the two appeals are rendered infructuous.

5. Accordingly, both appeals are dismissed.

(Pronounced in Court)

(P K Choudhary) | **(C J Mathew)**
Member (Judicial) | ***Member (Technical)***

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