IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Excise Appeal No. 78203 of 2018

(Arising out of Order-in-Appeal No.12-13/HWH/CE/2018-19 dated 18.04.2018 passed by Commissioner of CGST & Central Excise (Appeals-II), Kolkata)

Commissioner of CGST & CX, Howrah
(M. S. Building, 15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

M/s. Aum Bricks & Pavers Pvt. Ltd.
(Jangalpur, NH-6, Mouza-Argori, Howrah-711302)

Respondent

With

Excise Appeal No. 78227 of 2018

(Arising out of Order-in-Appeal No.12-13/HWH/CE/2018-19 dated 18.04.2018 passed by Commissioner of CGST & Central Excise (Appeals-II), Kolkata)

Commissioner of CGST & CX, Howrah
(M. S. Building, 15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

Shri Raghav Khaitan
Director, M/s. Aum Bricks & Pavers (Pvt) Ltd
(38, Ballygunge Park, Kolkata-700019)

Respondent

APPEARANCE:

Shri S. Debnath, Authorized Representative for the Appellant
Shri Sudhir Kumar Mehta, Sr. Advocate & Ms. Riya Debnath, Advocate, for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77257-77258/2025

Date of Hearing : 13th August 2025
Date of Decision : 13th August 2025

ORDER [PER R. MURALIDHAR]

The Revenue has filed these appeals being aggrieved by the impugned order passed by the Commissioner (Appeals) finding that the Respondent was eligible for Customs Duty exemption under Notification No. 1/2011-CX dated 01/03/2011.

2. The Learned AR submits that the Respondent assessee has classified their goods under CET 6901 0010. Since the Bricks are made of 'fly ash', the same are classifiable under 68159910. Therefore, in view of the erroneous classification of the goods, the Respondent has been claiming exemption under Notification No. 01/2011-CX dated 01/03/2011, which is not permissible. The second appellant has deliberately classified the goods so as to claim the ineligible exemption. Therefore, he prays that the impugned Order may be set aside and the Revenue's appeals may be allowed.

3. The Learned Counsel appearing on behalf of the Respondents submits that the Notification No. 01/2011-CE dated 01/03/2011 grants exemption for the bricks falling under Chapter 68 or Chapter 69. The description given therein is sand-lime bricks. There is no specification as to what should be the percentage of sand and lime etc. in order to avail the exemption. Therefore, he justifies the exemption granted under Notification No. 01/2011-CE dated 01/03/2011. He has also relied upon the decision of CESTAT, New Delhi in the case of **Sand Plast (India) Ltd. Vs. Commissioner of Central Excise, Delhi-II-2019 (24) G.S.T.L. 737 (Tri.-Del.)** In this case, the issue was as to whether the fly ash bricks would fall under CET 68159910 or not. Tribunal after going through the various rules of interpretation has concluded that the goods would fall under 68109990.

4. We find that irrespective of as to whether the goods fall under Section 68 or 69, under both the Chapters 'bricks' are mentioned and the same are covered by the exemption granted by Notification No. 01/2011-CE dated 01/03/2011. Therefore, we do not find any reason to interfere with the considered decision of the Commissioner (Appeals). Accordingly, we dismiss both the appeals filed by the Revenue.

(Dictated and pronounced in the open court.)

Sd/-
(K. Anpazhakan)
Member (Technical)

Sd/-
(R. Muralidhar)
Member (Judicial)

Pooja