IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO. IV

Appeal No. E/85560/18

(Arising out of Order-in-Appeal No. PUN-CT-APP-II-000-260 & 261-17-18 dated 8.11.2017 passed by the Commissioner of Central Excise & Service Tax (Appeals), Pune-III).

M/s Dnyaneshwar Vishwanath More Sakhar Karkhana Ltd.	Appellant

Vs.

Commissioner of Central Excise & Service Tax, Pune-I	Respondent

Appearance:

Shri Anand Kulkarni, Advocate	for Appellant
Shri Sanjay Hasija, Supdt. (AR)	for Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

Date of Hearing: 05.06.2018

Date of Decision: 05.06.2018

ORDER NO. **A/86843 / 2018**

Per: Dr. D.M. Misra

This is an appeal filed against Order-in-Appeal No. PUN-CT-APP-II-000-260 & 261-17-18 dated 8.11.2017 passed by the Commissioner of Central Excise & Service Tax (Appeals), Pune-III.

2. Briefly stated facts of the case are that the appellant are engaged in manufacture of excisable goods namely, Jaggery and

Jaggery Powder falling under Chapter 17 of the First Schedule to the Central Excise Tariff Act, 1985. During the relevant period i.e. from 2012-13 to 2014-15, they manufactured the said excisable goods and cleared in the market for home consumption but failed to discharge the duty on the same. The Departmental officers visited their factory and on completion of investigation issued demand notice on 14.12.2016 for recovery of duty of Rs.27,59,255/- with interest and penalty, not paid during the relevant period. On adjudication, the demand was confirmed with interest and penalty. Aggrieved by the said order, on an appeal by the appellant, the learned Commissioner (Appeals) upheld the Order-in-Original and rejected the appeal. Hence, the present appeal.

3. Learned Advocate Shri Anand Kulkarni appearing for the appellant submits that the appellants are basically farmers and not aware with the Central Excise law and procedure. After raising the loan from Bank, they had started the business of production of excisable goods but failed to discharge appropriate central excise duty due to ignorance of law. He submits that even the appellant did not know that they were entitled for credit on the inputs and capital goods that they have been utilized in the manufacture of excisable goods. It is his contention that there was no intention to evade duty or non-payment of central excise duty, but it was not paid due to ignorance of law. Hence, he pleads for waiver of penalty without disputing the duty and interest liability.

4. Learned AR for the Revenue submits that they have manufactured the excisable goods for continuous period of three years but they have not paid the duty. Ignorance of law as claimed by the learned Advocate for the appellant cannot be a ground for waiver of penalty.

5. Heard both sides and perused the records.

6. I find that undisputedly the appellant had manufactured and cleared the excisable goods during the period 2012-13 to 2014-15 without payment of central excise duty and no Central Excise registration has been obtained by them for manufacturing excisable goods. Non-payment of excise duty on the manufacture of excisable goods came to the knowledge of the Department on the basis of intelligence and visit by the officer to the factory premises of the appellant. There is no dispute of the fact that duty has not been paid continuously for three years. In these circumstances, it is difficult to appreciate that the appellant has not paid the excise duty due to ignorance of law, which cannot be a defense for non-compliance with the provisions of Central Excise law.

7. In the result, I do not find any merit in the appeal. Accordingly, the impugned order is upheld and the appeal is dismissed.

(Dictated and pronounced in the Court)

(Dr. D.M. Misra)
Member (Judicial)

Sinha