CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH

Excise Appeal No. 1016 of 2012

(Arising out of Order-in-Appeal No. PIII/RS/116/2012 dated 30.03.2012 passed by the Commissioner of Central Excise (Appeals-III), Pune.)

M/s. Godfrey Phillips India Ltd. ....Appellant
Plot No. A-1/1, MIDC Industrial Area,
Baramati, Pune – 413 102

VERSUS

Commissioner of Central Excise & Service Tax, Pune - III ....Respondent
ICE House, 41-A, Sasson Road,
Opposite Wadia College,
Pune, Maharashtra – 411 001

APPERANCE:

Shri Rajesh Ostwal, Advocate for the Appellant

Shri S. Anantha Krishnan, Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86186 / 2022

Date of Hearing: 09.11.2022
Date of Decision: 09.11.2022

PER: DR. SUVENDU KUMAR PATI

Determination of annual capacity of production and monthly duty liability for the Appellant under Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008 read with Notification No. 30/2008-CE(NT) and Notification No. 42/2008-CE(NT) both dated 01.07.2008 without taking retrospective application of it w.e.f. 13.04.2010 and confirmation of tax liability in both Order-in-Original and Order-in-Appeal for the period for December, 2011 is assailed in this appeal.

2. We have heard submissions from both the parties. During the course of hearing of the appeal learned Counsel for the Appellant, in producing judgment of the CESTAT pronounced in respect of the Appellant for the previous period that has been reported in *2022 (5) TMI 1115 – CESTAT-Mumbai* alongwith Miscellaneous Order No. M/85676-85679/2022 dated 20.09.2022, submitted that decision rendered by this Bench squarely covers the dispute in the present appeal that relates to the subsequent period. Appellant's appeal had been allowed by way of remand to the original Authority with specific directions vide above referred order.

3. Learned Authorised Representative confirmed the same and acknowledged that issue being same for a different period, the order referred by learned Counsel for the Appellant would also cover the same.

4. Having regard to the submissions made by both the sides, we allow the appeal and remand the matter back to the original Adjudicating Authority on the same terms and conditions as

stated in our order passed in respect of the present Appellant M/s. Godfrey Phillips India Ltd. on 19.05.2022, *cited supra* read with the rectification order passed on 20.09.2022, *cited supra*.

(Operative portion of the order pronounced in open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

Prasad