(2018) 08 UK CK 0006

In the Uttarakhand High Court

Case No : Central Excise Appeal No. 36 of 2018

Commissioner of Central Excise and Service Tax APPELLANT

Vs

M/s Rohit Surfactants P. Ltd RESPONDENT

Date of Decision : 01-08-2018

Acts Referred:
Central Excise Act, 1944 — Section 35G

Citation : (2018) 08 UK CK 0006

Hon'ble Judges : K.M. JOSEPH, C.J;SHARAD KUMAR SHARMA, J

Bench : Division Bench

Advocate : Shobhit Saharia

Final Decision : Dismissed

Judgement

K.M. JOSEPH, C.J. (ORAL)

SHARAD KUMAR SHARMA, J.

1. The substantial question of law, which is projected in this appeal filed under Section 35-G of the Central Excise Act, 1944, is as follows :-

â??In the light of the Apex Courts ruling dated 02.01.2002 in the Civil Appeal filed by A.P. Solvex Ltd. against the CESTAT Final Order given by

Tribunal-New Delhi, in the case of CCE Lallandhar vs. A.G Flats Ltd., 2012 (277) E.L.T. 96 (Tri. â?" Del.), that : â??When particular process is a

process of manufacture by virtue of chapter note, not only main product, but all the by-products would be treated as manufactured productsâ?; can

Spent Sulphuric Acid, a by-product emerging during process of manufacture of Acid Slurry, be still be treated as waste, scrap and pairings for the

simple reason that it was an unintended produce ?â??

2. We heard Shri Shobhit Saharia, learned Senior Standing Counsel on behalf of

the appellant.

3. Apparently, the issue, which is fundamental, is whether Sulphuric Acid, which emerges during the manufacture of the final product, is entitled to

exemption under the Notifications issued (50 of 2003 and 89 of 1995).

4. Having regard to the judgment rendered by this Court in Central Excise Appeal No. 10 of 2015, Commissioner of Central Excise & Service Tax

Vs. M/s Tirupati LPG Industries Ltd. and connected cases, we are of the view that this Appeal may not lie before this Court.

5. Accordingly, the Appeal is dismissed as not maintainable. However, this will be without prejudice to the right of the appellant to approach the

competent forum, if advised.

