(2016) 01 AHC CK 0288

In the Allahabad High Court

Case No : Central Excise Appeal No. 203 of 2012 with C.E.A. Nos. 701, 700 and 698 of 2012

Commissioner of Central Excise APPELLANT

Vs

Murari Lal Harish Chandra Jaiswal Pvt. Ltd. RESPONDENT

Date of Decision : 20-01-2016

Acts Referred:

Citation : (2016) 333 ELT 385

Hon'ble Judges : Tarun Agarwala and Vinod Kumar Misra, JJ.

Bench : Division Bench

Advocate : Shri Vinod Kant Srivastava, SC, for the Appellant; S/Shri A.P. Mathur, Rakesh Ranjan Agrawal and Suyash Agarwal, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

1. We have heard the learned counsel for the appellant.

2. The appellant has proposed the following substantial questions of law :-

(i) Whether under the facts and circumstances of the case the finding of the Tribunal that raw tobacco received in the factory in question, at Mohan Nagar, Ghaziabad was transferred to three units at Delhi is wholly perverse, without any evidence on record and based on surmises and presumption?

(ii) Whether, receipt of raw tobacco in the factory for manufacture of final product at Mohan Nagar, Ghaziabad established on record and there being absolutely no evidence of alleged transfer of substantial quantity of raw tobacco to three units at Delhi, the Appellate Tribunal was justified to allow the appeal of the respondents on the negative ground that the Department should have investigated source from where the three units of the respondent at Delhi have procured raw material for use in manufacture of their final product?

(iii) Whether under the facts and circumstances of the case the respondents have indulged in clandestine removal of goods from the factory of Mohan Nagar, Ghaziabad and evaded Central Excise duty.

(iv) Whether under the facts and circumstances of the case the impugned order of the Tribunal is wholly erroneous and unsustainable?

3. In our opinion the proposed question Nos. 1 and 2 are based on finding of facts, on which no substantial question of law arises.

4. The only question, which remains to be considered is with regard to proposed question No. 3, namely, whether the respondent has indulged in clandestine removal of the goods from the factory of Mohan Nagar, Ghaziabad and consequently evaded the Central Excise duty. In this regard a specific finding has been given by the authorities, namely, that the goods removed from the Mohan Nagar factory was sent to three units of the appellant. The fact, that the appellant had three other units have not been disputed. Consequently, it cannot be said that there was a case of clandestine removal of the goods.

5. In view of the aforesaid no substantial question of law arises for consideration.

6. The appeals are dismissed.