(2014) 04 AP CK 0031

In the Andhra Pradesh High Court

Case No : Central Excise Appeal No. 54 of 2014

Commr. of Cus., C. Ex. and Service Tax APPELLANT

Vs

3F Industries Ltd. RESPONDENT

Date of Decision : 22-04-2014

Acts Referred:

Citation : (2014) 309 ELT 654

Hon'ble Judges : Kalyan Jyoti Sengupta, C.J;Sanjay Kumar, J

Bench : Division Bench

Advocate : V. Gopala Krishna Gokhaley, Standing Counsel, Advocate for the Appellant; S. Ravi, Senior Counsel and Pushyam Kiran, Advocate for the Respondent

Judgement

Sanjay Kumar, J.—This appeal is filed by the Commissioner, Customs, Central Excise and Service Tax, Guntur, against the final order, dated 24-2-2014 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Bangalore in Appeal No. C/27716/2013-DB 2014 (304) E.L.T. 449 (Tri.-Bang.)], holding that the respondent-company is eligible for the benefit of exemption under Notification No. 12/2012 , dated 17-3-2012. In this regard, the learned Tribunal placed reliance on the judgments of the High Courts of Gujarat [2013 (288) E.L.T. 209 (Guj.)] and Gokul Refoils Solvents Pvt. Ltd. Vs. Union of India (UOI) and Others, dealing with Notification No. 21/2002 , which was similar to the present Notification No. 12/2012. We are in respectful agreement with the views expressed by the above named High Courts and it is brought to our notice that the said judgments have not been upset as on date.

2. Learned counsel appearing for the appellant would however place reliance on the Circulars issued by the Government of India on 6-1-2011 and 25-10-2001 with regard to clearance of consignments only after compliance with all the conditions.

3. As the respondent-company has been found eligible on facts to claim exemption benefit under the department''s own Notification No. 12/2012 and as

the regulations require that product should be edible palm oil and therefore imported variety requires refining, we called upon the respondent-company to submit an undertaking to that effect. Today, Sri S. Ravi, learned senior counsel appearing for the respondent-company, placed before us the signed undertaking dated 21-4-2014, whereby Sushil Goenka, a Director of the respondent-company, undertook that the company would not release the detained imported crude palm oil without refining the same conforming to contents as per notification making it fit for human consumption. This refining is proposed to be undertaken at the respondent-company''s factory located at Krishnapatnam Port area, Pantapalem Village, Muthukur Mandal, SPSR Nellore District, where the oil has been warehoused and is presently detained. The respondent-company further confirmed that it would allow access to the officials of the Customs department to supervise and inspect the process so as to ensure compliance with the requirement of refining. In view of above discussion, we find no merit in the contentions raised by the learned counsel for the appellant. No question of law, much less a substantial question of law, arises for consideration. The CEA is accordingly dismissed subject to due compliance with the undertaking. No costs.

