(2016) 01 AHC CK 0293

In the Allahabad High Court

Case No : Central Excise Appeal No. 186 of 2008

U.P. State Sugar Corporation Ltd. APPELLANT

Vs

Commissioner of Cus. & C. Ex., Noida RESPONDENT

Date of Decision : 25-01-2016

Acts Referred:

Citation : (2016) 334 ELT 434

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

Bench : Division Bench

Advocate : Ms. Sunita Agrawal and Shri Tarun Agarwal, Counsels, for the Appellant; ASGI, for the Respondent

Final Decision : Dismissed

Judgement

1. Appellant, U.P State Sugar Corporation Limited has filed this appeal against the judgment and Order No. 32/2008, dated 11-1-2008 passed by Customs, Excise and Service Appellate Tribunal, New Delhi [2008 (225) E.L.T. 298 (Tribunal)].

2. Heard the learned counsel for the appellant and the learned counsel for the respondent.

3. The learned counsel for the appellant submitted that learned Tribunal has rejected the remission application in respect of part quantity on the ground that appellant could have served it from auto combustion by storing 12,172 qtls. more in steel tank.

4. We have perused the judgement of the Tribunal. The learned Tribunal has found that combined capacity of three tanks in question was 120,000 quintals but only 107.828 quintals of molasses were kept therein which means that additional 12,172 quintals could be kept in them.

5. The learned Tribunal gave a finding that the act of the appellant in not fully utilising the tanks and storing 28,956.20 quintals in the open pit cannot be said

to be a bona fide act.

6. The Tribunal granted remission of Excise Duty of 15,651 quintals of molasses but declined to grant remission on the balance quantify which could not be kept in the steel tank.

7. In our view, the approach of the Tribunal is according to law as the appellant was duty bound keep the molasses in the three tanks to their full capacity. Since appellant has not utilised the three tanks to the fullest capacity so the Tribunal was justified in granting remission of excise duty on 15,651 quintals but refused to grant remission on the balance quantity which could be stored in the steel tank.

8. Therefore, we do not find any illegality in the impugned judgment of the Tribunal.

9. Consequently, the appeal is dismissed.