HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CEA No.125 of 2017

Date:16.11.2017

Between:

The Commissioner of Central Excise and
Service Tax, Tirupati Commissionerate.

..... Appellant

And:

M/s Rain Commodities Ltd.,
Boincheruvupalli Village,
Kurnool District.

....Respondent

Counsel for the appellant: Mr. Suresh Kumar Routhu
Standing Counsel for Customs, Central Excise and Service Tax

The Court made the following:

JUDGMENT: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

The issue whether the respondent-assessee was entitled to avail CENVAT credit on Service tax and Educational cess in respect of the transactions between February, 2005 and July, 2005, without being registered as Input Service Distributor, was considered by the Commissioner of Customs, Central Excise and Service Tax (Appeals), Guntur and held in favour of the respondent-assessee. This order was confirmed in appeal by the Customs, Excise and Service Tax Appellate Tribunal, Regional Bench, Hyderabad (for short 'the Tribunal'). Assailing the same, the Revenue filed the present appeal.

After hearing Mr. Suresh Kumar Routhu, learned Standing Counsel for Customs, Central Excise and Service Tax, we are of the opinion that the orders of both the appellate authorities are not liable for interference for, as a matter of fact, the first appellate authority found that though the definition of "Input Service Distributor" was incorporated in the Service Tax Rules, 1994 as well as in the Central Credit Rules, 2004, for the first time the procedure for registration as Input Service Distributor was envisaged in a notification issued on 07.6.2005. It has further held that though the respondent-assessee was earlier registered under the category of Business Auxiliary Service, at least six out of seven transactions in respect of CENVAT credit have taken place prior to issuance of notification, dated 07.6.2005. In the process, the first appellate authority has followed the decision of the CESTAT, New Delhi in ***M/s Hindustan Coca Cola Beverages Pvt. Ltd Vs. CCE, Meerut-II***[1]. Having examined the reasons assigned by the first appellate authority, the Tribunal has concurred with the same and dismissed the appeal filed by the Revenue.

In the light of the above, we do not find any substantial question of law arising for our interference in this appeal. The appeal is, accordingly, dismissed.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE CHALLA KODANDA RAM

16th November 2017
DR

[1] 2011 (266) ELT 347 (Tri.-Del.)