

GAHC010090272024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : C.Ex.App./3/2024

COMMISSIONER OF CENTRAL EXCISE, GUWAHATI, SETHI TRUST
BUILDING, BHANGAGARH, GUWAHATI 781005. PRESENTLY PRINCIPAL
COMMISSIONER CGST AND CENTRAL EXCISE, GST BHAWAN, KEDAR
ROAD, MACHKHOWA, GUWAHATI 781001

VERSUS

M/S BRAHMAPUTRA CARBON LTD.
INDUSTRIAL ESTATE, NEW BONGAIGAON, ASSAM 783380

For the Appellant(s) : Mr. S.C. Keyal, Standing Counsel, GST.

For the Respondent(s) :

– B E F O R E –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

16.08.2024
(Vijay Bishnoi, CJ)

This excise appeal is preferred by the Revenue being aggrieved with the order passed by the Commissioner (Appeals) dated 25.08.2011 as well as the order dated 02.11.2023 passed by the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), Kolkata in Excise Appeal No.942/2011.

The Commissioner (Appeals), vide the impugned order dated 25.08.2011, has partially modified the order passed by the Deputy Commissioner, Central Excise, Dhubri and has ordered for refund of an amount of ₹ 2,76,461/- (Rupees Two Lakhs Seventy Six Thousand Four Hundred Sixty

One) in addition to the other amount as allowed by the Deputy Commissioner, Central Excise, Dhubri.

The CESTAT, Kolkata has dismissed the excise appeal preferred by the Revenue on the ground that the amount involved in the case is below the monetary limit of ₹ 50,00,000/- (Rupees Fifty Lakhs), which has been notified by the Board's Instruction dated 22.08.2019 and, therefore, the appeal was dismissed under the National Litigation Policy.

Mr. S.C. Keyal, learned counsel for the appellant has submitted that a substantial question of law is involved in this appeal and, therefore, as per the instructions issued by the Government of India, Ministry of Finance dated 26.06.2024, the Revenue can very well pursue the appeal in respect of the substantial question of law.

Having heard the learned counsel for the Revenue and after going through the impugned orders, we are of the view that since the amount involved in the present case is only ₹ 2,76,461/- (Rupees Two Lakhs Seventy Six Thousand Four Hundred Sixty One) and as per the National Litigation Policy, the Revenue is not supposed to pursue the said case, therefore, without interfering with the impugned orders, we close this excise appeal. However, the question of law raised in this appeal is left open for appropriate decision in appropriate case.

The excise appeal is accordingly disposed of.

JUDGE

CHIEF JUSTICE