IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

C.E.Appeal.No. 12 of 2004

AGAINST THE ORDER IN E/ 203/2001 of CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, SOUTH ZONE BENCH, BANGALORE DATED 17-09-2003

APPELLANT/APPELLANT/RESPONDENT.:

COMMISSIONER OF CENTRAL EXCISE,
CALICUT COMMISSIONERATE,
C.R.BUILDING, MANANCHIRA
CALICUT.

BY ADVS.SRI.S.KRISHNAMOORTHY, CGC
SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX

RESPONDENT/APPELLANT.:

M/S.SURABHI STEELS (P) LTD.,
AKATHETHARA, PALAKKAD.

R, BY ADV. SRI.C.P.MOHAMMED NIAS

THIS CENTRAL EXCISE APPEAL HAVING BEEN FINALLY HEARD ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.E.Appeal.No. 12 of 2004

APPENDIX

PETITIONER'S ANNEXURES:

ANNEUXRE A1: COPY OF THE SHOW CAUSE NOTICE DATED 10-9-1997 OF THE SUPDT. CENTRAL EXCISE, PALAKKAD.

ANNEXURE A2: COPY OF ORDER IN ORIGINAL NO.58/98 DATED 27.2.98 ISSUED BY COMMISSIONER OF CENTRAL EXCISE.

ANNEXURE A3: COPY OF THE ORDER IN APPEAL NO.44 TO 46 CE DATED 30-1-2001 BY THE COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS (APPEALS).

ANNEXURE A4: COPY OF CORRIGENDUM TO ORDER IN APPEAL NO.44 TO 46 CE DATED30-1-2001 ISSUED BY COMMISSIONER OF CUSTOMS AND CENTRAL EXCISE (APPEALS), KOCHI.

ANNEXURE A5: COPY OF CESTAT ORDER NO.1771/03 DATED 17.9.2003.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

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C.E.A.No.12 of 2004

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Dated this the 30th day of July, 2015

JUDGMENT

Antony Dominic, J.

This appeal is filed against the order of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Banagalore, in Appeal No.203/01. By the order impugned, the Tribunal allowed the appeal filed by the respondent.

2. Reading of the order passed by the Tribunal shows that the denial of modvat credit in respect of certain goods was only on the ground that there was delay in acknowledging the declaration dated 5.8.1997, submitted by the assessee. It is seen that the assessee had submitted his declaration dated 5.8.1997. However, the same was acknowledged only on 19.8.1997 and, therefore, on that basis delay was condoned only with effect from 19.2.1997 and not with effect from 5.2.1997. It was on appreciation of this factual issue that the Tribunal held that the delay on the part of the Department in

acknowledging the declaration cannot be a reason to deny the benefit claimed by the respondent.

We do not see any illegality in the view taken by the Tribunal. Appeal fails and it is accordingly dismissed.

SD/-
ANTONY DOMINIC
JUDGE

SD/-
SHAJI P. CHALY
JUDGE

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