

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

C.E.Appeal.No. 4 of 2015

AGAINST THE ORDER/JUDGMENT IN ST.NO. 464/2011 of CUSTOMS,EXCISE & SERVICE TAX
APP.TRIBUNAL, BANGALORE DATED 2.12.2014

APPELLANT:

AL-HUSSAM INDIA HAJJ & UMRAH
SERVICE MANAGEMENT ROOM NO.32 & 33
II FLOORPENTA TOWER, KALOOR, KOCHI - 17
KERALA.

BY ADVS.SRI.ANIL D. NAIR
SRI.R.SREEJITH
SMT.C.S.SULEKHA BEEVI
SMT.ROSIE ATHULYA JOSEPH
KUM.SOUMYA PRAKASH

RESPONDENT:

THE COMMISSIONER OF CENTRAL EXCISE CUSTOMS AND SERVICE TAX
COCHIN - CCE, C.R.BUILDING, I.S.PRESS ROAD
ERNAKULAM, COCHIN - 682 018.

R-R BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX

THIS CENTRAL EXCISE APPEAL HAVING COME UP FOR ADMISSION ON
22-01-2015 ALONG WITH C.E.A.5 OF 2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

C.E.A.Nos.4 & 5 OF 2015

Dated this the 22nd day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

These appeals are admitted. Learned Senior Standing Counsel for the Central Board of Excise and Customs takes notice. Parties agree that the matter can be heard finally now itself. Hence heard.

2. The appellants in these appeals were before the South Zonal Bench of CESTAT challenging levy of service tax. They stand to say that their issue is at par with what was considered by the particular bench in matters which are shown to have been decided as per Annexure H. The only issue in these appeals is as to whether the Tribunal is justified in rejecting the application for modification of the term imposed as pre-deposit. Annexures F and J orders taken together would result in the appellant being compelled to deposit the entire amounts since no pre-deposit was waived.

3. Having heard the learned counsel for the appellants and the learned Senior Standing Counsel for Central Board of Excise and

Customs, we are of the view that ends of justice require that the appellant be provided an additional opportunity of hearing on the applications seeking waiver in both the appeals. We say this on the very peculiar facts including the factors which lead the parties to require for opportunity. Thus, taking a lenient view in the matters, the orders impugned in these appeals, i.e., Annexure J and consequential Annexure F orders, are set aside thereby paving way for the CESTAT to consider the applications for waiver of pre-deposit in both the appeals. The appellant is directed to mark appearance before the office of CESTAT South Zonal Bench on 5th February 2015 to obtain appropriate date of listing of the case before CESTAT as may be convenient to the South Zonal Bench.

Appeals are disposed of.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-

K.HARILAL, JUDGE

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