THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.E.A No. 87 of 2015

ORDER:- (per Hon'ble Sri Justice Challa Kodanda Ram)

The order dated 16.06.2015 passed by the CESTAT, South Zonal Bench, Bangalore, is challenged before us. Though three questions of law are said to have been arising from the said order, we really see no question of law as such arising from the order of the Tribunal.

2. The appellant challenged the Order-in-Original dated 30.09.2011 passed by the Joint Commissioner of Customs & Central Excise, Guntur, wherein the appellant was held liable to pay Rs.17,11,712/- towards Service Tax, Education Cess and Secondary Education Cess. The Order-in-Original also determined the appellant to pay interest and penalty. In appeal, the said order came to be confirmed by the Commissioner of Customs, Central Excise and Service Tax (Appeals). Challenging the same, the appellant preferred further appeal before the CESTAT, Bangalore. By Order dated 08.07.2013, the Tribunal declined to consider the prayer of the appellant with respect to the condition of pre-deposit, but however granted twelve weeks' time for making the deposit, with a further observation that if the deposit is not made, the appeal stands dismissed without reference to the Tribunal. Thereafter, the appellant approached this Court by filing

W.P.No.33946 of 2013. This Court, on 27.11.2013, while setting aside the order passed by the Tribunal dated 08.07.2013, remanded the matter back to the Tribunal to consider the aspect of financial hardship pleaded by the appellant. The Tribunal, by Misc. Order No.20999/2015 dated 16.06.2015 granted a substantial relief by directing the appellant to pay 50% of the tax along with interest as pre-deposit for consideration of the appeal. As a matter of fact, the pre-deposit was directed to be made on or before 20.07.2015. Challenging the said order, the appellant is before us.

3. Learned counsel for the appellant submits that the appellant is facing financial hardship and he has already paid 30% of the Service Tax, in addition to further sum of Rs.5,81,564/-. In that view of the matter, learned counsel prays to modify the order passed by the Tribunal on 16.06.2015, by confining the pre-deposit amount to 30%, which the appellant has already paid.

4. We have heard the learned counsel for the appellant Mr. Raji Reddy, and the learned Standing Counsel for the Department Mr. Gopala Krishna Gokhale, and also perused the record.

5. In the facts of the present case, we find that originally the Tribunal had refused to grant any waiver of pre-deposit in toto and thereby the appellant was liable to pay the tax assessed and an equal amount of penalty in addition to interest. As against that, the Tribunal, vide impugned order directed the

appellant to deposit only 50% of the tax along with interest. However, as the time granted was only upto 20.07.2015, considering the financial hardship pleaded by the appellant, we grant a further time of three months from today to pay the balance amount, thus totalling to 50% of the tax and interest. The amounts already paid by the appellant shall be given credit to while computing the 50% of the amount of tax and interest.

6. The appeal is, accordingly, disposed of. No costs. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

G. CHANDRAIAH, J
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CHALLA KODANDA RAM, J

24th July, 2015

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HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

<u>C.E.A. No. 87 of 2015</u>

24th July, 2015

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