THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

C.E.A.Nos.102 of 2014 and 22 of 2015

DATED:17.03.2015

Between:
N.C. Enterprises,
Visakhapatnam.

… Appellant

And

Commissioner of Central Excise, Customs,
And Service Tax,
Visakhapatnam.

….Respondents

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Common Judgment: (per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

After hearing Mr. S.R. Ashok, learned Senior Advocate and also the learned counsel for the Revenue, we find there is no reason to interfere with the impugned order of the learned Tribunal disposing of the application for waiver of pre-deposit.

We notice that the learned Tribunal even without having any ground whatsoever in the application for waiver of pre-deposit granted part relief. This order was sought to be modified before the Tribunal itself on a separate application subsequently filed taking a new ground alleging that the figure arrived at by the adjudicating authority of Rs.77 crores and odd is absurd and incorrect factually. The learned Tribunal dismissed the modification application and has granted extension of time to make pre-deposit in order to maintain the appeal. Even we do not find any dispute with regard to the amount of Rs.77,62,12,824/-. The order of modification is also not challenged before us. In view of non-deposit, the appeal filed before the Tribunal came to be dismissed.

However, we feel that justice will be sub-served if the following order is passed. We grant three (3) months time to the appellant to make deposit of the amount in terms of the order of the learned Tribunal, which is impugned herein. Till then, status of the appeal, which has been dismissed by the Tribunal in view of default of deposit, would be in suspended animation. In the event, the amount of pre-deposit as directed by the Tribunal is made within the time granted by us, then the appeal before the Tribunal will stand restored and in that case, the order of dismissal of the appeal will stand set aside.

The appeals are accordingly disposed of.

Pending miscellaneous applications shall also stand disposed of. No costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

17th March, 2015

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