IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

STA No. 23 of 2015 (O&M)

Date of Decision: 14.9.2015

M/s Longia Road Carriers, Chandigarh

....Appellant.

Versus

Commissioner of Central Excise, Chandigarh-I

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.

PRESENT: Mr. Deepak Gupta, Advocate for the appellant.

Mr. Sukhdev Sharma, Advocate for the respondent.

AJAY KUMAR MITTAL, J.

1. This appeal has been preferred by the assessee under Section 35G of the Central Excise Act, 1944 against the order dated 7.7.2015 (Annexure A-4) passed by the Customs Excise and Service Tax Appellate Tribunal, New Delhi (hereinafter referred to as "the Tribunal") directing the assessee to deposit ₹ 6 lacs along with interest as pre-deposit.

2. A few facts relevant for the decision of the controversy involved as narrated in the appeal may be noticed. The appellant is engaged in providing services under the category of Goods Transport Agency falling under Section 65(105)(ZZP) of the Finance Act, 1994. The respondent on the basis of information provided by the Deputy

Commissioner, Central Excise Division, Shimla initiated investigation against the appellant who submitted reply vide letter dated 17.4.2008. The respondent issued a show cause notice to the appellant. The adjudicating authority vide order dated 16.4.2012 (Annexure A-1) confirmed the demand of ₹ 38,08,083/- and also imposed penalty of equal amount. Feeling aggrieved, the assessee filed an appeal before the Commissioner (Appeals) who vide order dated 15.7.2013 (Annexure A-2) confirmed the demand of ₹ 34,84,273/- along with interest and set aside the demand of ₹ 3,23,810/-. Penalty of equal amount was also upheld. Still dissatisfied, the appellant filed an appeal along with stay application (Annexure A-3) before the Tribunal. The Tribunal vide order dated 7.7.2015 (Annexure A-4) directed the appellant to deposit a sum of ₹ 6 lacs along with interest as pre-deposit. Hence, the present appeal.

3. Learned counsel for the appellant submitted that the requirement of ₹ 6 lacs with proportionate interest as a pre-deposit as directed by the Tribunal was unfair and excessive. He, however, submitted that the appellant has deposited a sum of ₹ 6 lacs in terms of order dated 25.8.2015 passed by this Court.

4. Learned counsel for the revenue opposed the prayer made by the learned counsel for the appellant and submitted that the amount as directed by the Tribunal was reasonable and justified.

5. The primary dispute that arises for consideration in this appeal relates to the quantum of pre-deposit to be made by the appellant as a condition precedent for the hearing of the appeal by the Tribunal. After hearing learned counsel for the parties and keeping in view the totality of the facts and circumstances of the case coupled with the fact that the appellant has already deposited a sum of ₹ 6 lacs, we are of the

opinion that the ends of justice would be met if the Tribunal is directed to hear the appeal on merits without insisting for any further deposit. Ordered accordingly.

6. The appeal stands disposed of.

(AJAY KUMAR MITTAL)
JUDGE

September 14, 2015
gbs

(RAMENDRA JAIN)
JUDGE