NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TAX CASE NO. 53 OF 2015

Commissioner, Central Excise, Customs & Service Tax, Bilaspur (C.G.)

… Appellant

Versus

M/s Prakash Industries Limited, Police Office- Champa 495671, District Janjgir-Champa (C.G.)

... Respondent

For Appellant	:	Mr. Maneesh Sharma, Advocate.
For Respondent	:	Mr. Rahul Tamaskar, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per NAVIN SINHA, C.J.

16/02/2016

1. The present appeal under Section 35-G of the Central Excise Act, 1944 has been filed against the final order dated 14.5.2015 in Appeal No. ST/425/2009-CU(DB) passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi.

2. Learned Counsel for the Appellant submits that the only issue canvassed by the Appellant as a question of law is with regard to service tax payment by reverse charge mechanism through utilisation of CENVAT credit. Though the Tribunal has inter-alia relied upon 2012 (25) STR 129 (Punjab & Haryana) (CCE v. Nahar Industrial Enterprises), the department has preferred a Special Leave Petition against the same which is pending consideration. It is acknowledged that there is no interim order therein.

3. Learned Counsel for the Respondent submits that the question of law as framed on behalf of the Appellant in the present appeal following Nahar Industrial Enterprises (supra) has already been decided by a

Division Bench of this Court in Tax Case Nos. 44 and 46 of 2007 (Union of India v. Mohini Industries), dated 13.12.2012, taking the same view and additionally relying upon 2013 (29) STR 358 (Delhi) (Commissioner of Service Tax v. Hero Honda Motors Ltd.) holding that payment of service tax through reverse charge mechanism by utilisation of CENVAT credit was in accordance with law.

4. In view of the decision already rendered on the only question of law sought to be urged on behalf of the Appellant, by a Division Bench of coordinate jurisdiction in Tax Case Nos. 44 and 46 of 2007 (Union of India v. Mohini Industries), there is no occasion for us to entertain the present appeal much less frame any question of law for consideration.

5. The appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge

/sharad/