

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CENTRAL EXCISE APPEAL NO.5/2015

The Commissioner of Central Excise, Customs & Service Tax, Nagpur
...Versus...
M/s. Shreem Coal Carriers (P), Ltd., Chandrapur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Anand Deshpande, Advocate for appellant

CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.
DATE : 07.04.2016

By this Central Excise Appeal, the appellant – Department has challenged the order of the Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench at Mumbai, dated 3.9.2014 that was based on the judgment of the Orissa High Court in the case of *Coal Carriers...Versus...CCE&ST, Bhubaneswar*, reported in *2011 (24) STR 395 (Ori.)*.

It appears that the Hon'ble Supreme Court has allowed the appeal preferred by the assesseees and the Department before the Hon'ble Supreme Court and the judgment of the Orissa High Court in the aforesaid case has been set aside. It appears that the Hon'ble Supreme Court has directed the CESTAT to constitute a larger Bench immediately so that the controversy is decided finally within one year. It further appears that in view of the said decision, several orders of the CESTAT that are based on the judgment in the case of *Coal Carriers...Versus... CCE&ST,*

Bhubaneswar have been set aside by this Court and the appeals filed by the appellants before the CESTAT are restored to file for further consideration and disposal.

Hence, in view of the aforesaid, the impugned order passed by the CESTAT, dated 3.9.2014 is hereby quashed and set aside. The appeal filed by the respondent herein is restored before the CESTAT at Mumbai. The CESTAT at Mumbai may dispose of the appeal in accordance with the directions of the Hon'ble Supreme Court in the appeals that had reversed the order of the Orissa High Court in the case of **Coal Carriers...Versus... CCE&ST, Bhubaneswar**.

The Central Excise Appeal is disposed of in the aforesaid terms with no order as to costs.

JUDGE

JUDGE

Wadkar