**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CEA No. 28 of 2007 (O&M)
Decided on : 03.03.2016**

Commissioner of Central Excise, Chandigarh

. . . Appellant

Versus

M/s Shri Ambika Alloys and another

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

PRESENT: Ms. Seema, Advocate for
Ms. Ranjana Shahi, Sr. Panel Counsel
for the appellant-revenue.

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AJAY KUMAR MITTAL, J. (Oral)

The Assistant Commissioner while adjudicating the show cause notice dated 12th September, 2013, vide his Order-in-Original dated 17th May, 2004, imposed the demand and penalty upon the respondent, the relevant and operative part of the aforesaid order is as under:-

> *"1. I confirm the demand of ₹ 1,84,944/- (i.e. ₹ 1,27,372/- + ₹ 57,572/-) under Rule 12 of the Cenvat Credit Rules, 2002 read with Section 11A of the Central Excise Act, against M/s Shree Ambica Alloys, R.G., Mill Road, Mandi Gobindgarh. Since the said amount has already been paid by the party. I allow the adjustment of the same against the duty confirmed.*
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> *2. I impose penalty of ₹ 1,84,944/- under Rule 25 of the Rules and Rule 13(2) of CENVAT Credit Rules, 2002 read with Section 11AC of the Act. The party has an option as per proviso (i) of Section 11AC of the Central Excise Act, 1944 to pay 25% of the penalty if paid, within 30 days of the communication of this order, failing which they will have to pay the whole penalty.*
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> *3. I impose a penalty of ₹ 25,000/- upon Sh. Sanjay Singla, partner of the party under Rule 26 of the Rules and Rule 13 of the Cenvat Credit Rules, 2002."*

2. The tax effect involved in the present appeal being less than ₹ 15 lacs, keeping in view the instructions dated 17.12.2015 and 01.01.2016, issued by the Central Board of Excise & Customs (C.B.E.C.), New Delhi, learned counsel for the appellant-revenue states that the present appeal may be dismissed as withdrawn. However, she prayed that liberty be granted to the revenue to file an application for revival of the appeal in case something survives therein.

3. Dismissed as withdrawn with liberty as prayed for. It is, however, clarified that withdrawal of the appeal by the revenue shall not be taken to be affirmation of order of the Tribunal on merits. Further, the legal issue as claimed by the revenue is being left open to be adjudicated in an appropriate case.

(AJAY KUMAR MITTAL)
JUDGE

(RAJ RAHUL GARG)
JUDGE

March 03, 2016
J.Ram