IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Central Excise Appeal No.191 of 2010(O&M)
Date of Decision: July 28, 2016

Commissioner Central Excise ...Appellant

Versus

Vinod Kumar Gupta …Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr.Amit Goyal, Advocate
for the appellant.

Mr.Jagmohan Bansal, Advocate
for the respondent.

RAJESH BINDAL, J.

The Revenue is in appeal raising the following substantial questions of law arising out of the final order No.829/2009-EX(DB) dated 16.10.2009 (Annexure P-3) passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi (for short `the Tribunal') :

"*1. Whether reducing of penalty from ₹50 lacs to ₹10 lacs on Shri Vinod Kumar Gupta, who had actively connived and abetted with M/s Asian Alloys Ltd. in the fraudulent passing of Cenvat Credit is deterrent enough to stop future frauds to the Government exchequer?*

2. Whether for any fraudulent dealing between purchaser and registered dealers, the exchequer can be made to bear the loss of revenue?"

By the impugned order, the Tribunal had reduced the amount of penalty from ₹50 lacs to ₹10 lacs, as imposed on the respondent. The order was challenged by the respondent by filing CEA No.53 of 2010 `Vinod Kumar Gupta vs. Commissioner of Central Excise', which was allowed after notice to the Department vide order dated 16.3.2012 and the entire amount of penalty was set aside.

Though, the Department had filed the appeal, much prior to the disposal of the appeal filed by the respondent, but this fact was not brought to the notice of the Court at the time of hearing of the appeal, filed by the respondent against the same order passed by the Tribunal.

Now, once this Court has already examined the order passed by the Tribunal with regard to the levy of penalty on the respondent and set aside the same after hearing the Department, there is no merit in the appeal filed by the Revenue.

Accordingly, for the reasons stated in Vinod Kumar Gupta's case (*supra*), the present appeal is dismissed as no substantial question arises.

(RAJESH BINDAL)
JUDGE

July 28+, 2016
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(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned : Yes/ No

Whether reportable : Yes/ No