IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.E.A. No. 82 of 2014 (O&M)
Date of decision: 29.9.2016

Commissioner Central Excise Commissionerate, Chandigarh-I .. Appellant

vs

M/s Godrej & Boyce Mfg. Company Limited .. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Darshan Singh

Present: Mr. Tajender K. Joshi, Advocate, for the appellant.
Mr. Surjeet Bhadu, Advocate, for the respondent.

Rajesh Bindal, J.

The revenue is in appeal against the order dated 12.3.2014 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (for short, 'the Tribunal'), in Excise Appeal No. E/207/2007-EX (SM), raising the following substantial questions of law:-

i) Whether the Cenvat Credit of Service Tax paid on outward transportation of their final product during the period 2005-06 is admissible when it has been established that the same is not in accordance with the provisions of law/ Rules framed thereunder i.e. Cenvat Credit Rules, 2004 ?

ii) Whether Cenvat Credit is admissible on the freight charges which have not been proved as an integral part of the price of goods ?

A perusal of the order of the Tribunal shows that for the purpose of accepting the appeal filed by the assessee, reliance was placed upon judgment of Karnataka High Court in *Commissioner of C. Ex. & S. T., LTU, Bangalore vs ABB Limited* 2011 (23) S.T.R. 97.

Learned counsel for the assessee submitted that similar issue was gone into by this Court in STA No. 8 of 2012 *Commissioner of Central Excise, Commissionerate, Rohtak vs M/s Haryana Sheet Glass Limited*, decided on 19.2.2013. In that case as well the Tribunal had placed reliance upon Karnataka High Court judgment in *ABB Limited*'s case(supra). The case was regarding entitlement to avail input tax credit of the service tax paid on outward transportation charges of goods after clearance from the factory. The opinion was expressed in favour of the assessee.

This issue has already been gone into by this Court in *M/s Haryana Sheet Glass Limited's* case (supra), and it was opined that no substantial question of law arises. Judgment of Karnataka High Court in *ABB Limited*'s case (supra) was followed.

For the reasons stated in *M/s Haryana Sheet Glass Limited*'s case (supra), we find that the issue having already been gone into by this Court in favour of the assessee, no substantial question of law arises in the preset appeal. The same is accordingly dismissed.

(Rajesh Bindal)
Judge

29.9.2016 (Darshan Singh)
vs Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No