IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

STA No. 30 of 2015 (O&M)
Decided on : 01.02.2016

Commissioner of Central Excise and Service Tax

. . . Appellant

Versus

M/s Arora Fabrics Pvt. Ltd.

. . . Respondent

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

PRESENT: Ms. Ranjana Shahi, Advocate
for the appellant.

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AJAY KUMAR MITTAL, J. (Oral)

A perusal of the Order in Original shows that the liability demand of service tax of ₹58,314/- was confirmed against M/s Arora Fabrics Pvt. Ltd.-respondent. Besides the aforesaid, a penalty of ₹200/- per day for every day during which such failure continued or @ 2% of ₹58,314/- per month, whichever was higher, was also to be recovered. The period of levy was to commence with the first day after the due date till the date of actual payment of outstanding service tax amount. Further a penalty of ₹58,314/- was also imposed under Section 78 of the the Central Excise Act, 1944 (in short 'the Act').

2. It was not disputed by learned counsel for the appellant that the tax effect involved in the present appeal being less than the monetary limit of ₹15 lacs prescribed in the instructions of CBEC dated 17th December, 2015, followed by further instructions issued on 01.01.2016, making the aforesaid circular effective retrospectively and applicable to the pending appeals in the High Courts. She submitted that in view of the above, the present appeal may be dismissed as withdrawn. However, 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 Dismissed as withdrawn with liberty as prayed for.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

February 01, 2016

J.Ram