

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Service Tax Appeal No. 36 of 2015(O&M)
Date of decision:-25.07.2016

M/s Ahluwalia Contracts(1) Ltd. ... Appellant.
vs.
Commissioner of Central Excise ... Respondent

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

Present:- Mr. Jagmohan Bansal, Advocate
for the appellant.

Mr. Tajender K. Joshi, Advocate
for the respondent.

RAJESH BINDAL,J

The issue raised in the present appeal against the order passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi (for short 'the Tribunal') is regarding pre-deposit of the amount for the purpose of entertainment of appeal. The Tribunal noticed that the appellant had recovered a sum of ₹1,41,91,440/- towards service tax but deposited ₹71,57,079/-, hence an amount of ₹70,34,361/- remains balance.

Direction was issued for depositing ₹1.50 crore as pre-condition for hearing the appeal.

The case set up by the appellant is that even the aforesaid amount also stood deposited. However, as observed by the Tribunal, the appellant was unable to link the receipts produced showing deposit of the amount with the amount claimed to have been paid. It was observed by the Tribunal with reference to a judgment of Hon'ble the Supreme Court in Commissioner of Central Excise and Customs, Kerala vs. M/s

Larsen and Toubro Ltd., 2015(39) STR 913 that no tax for the period prior to 01.06.2007 was payable.

In the facts, in hand, the appeal was filed by the appellant against the order-in-original passed on 27.11.2013 & 15.04.2014, which was taken up for hearing on 06.10.2015. During interregnum, Section 35-F of Central Excise Act, 1944 was amended providing for deposit of 7.5% of the demand of tax raised, as pre-condition for entertainment of appeal.

Be that as it may, keeping in view the totality of the facts and circumstances, we are of the opinion that the order passed by the Tribunal deserves to be modified to the extent that the appeal filed by the appellant be entertained on merits on deposit of ₹25,00,000/- additionally.

Let the aforesaid amount be deposited within six weeks from today and the appeal be heard by the Tribunal thereafter on merits.

The appeals stands disposed of accordingly.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

25.07.2016
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Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No