$~15

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ SERTA 27/2016, C.M. APPL.33775-33776/2016

COMMISSIONER OF CENRAL EXCISE & SERVICE TAX (LUT) ..... Appellant

Through : Sh. Pramod Kumar Rai, Sr. Standing Counsel with Sh. Deepak Anand, Jr. Standing Counsel.

versus

ORIENTAL INSURANCE COMPANY LTD ..... Respondent

Through : Sh. Yogendra Aldak, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% 16.09.2016

The question of law urged by the appellant, i.e. the Service Tax authorities is that the Customs Excise and Service Tax Appellate Tribunal (CESTAT) fell into error in holding that in the circumstances of the case, the extended period of limitation could not be invoked.

The respondent/assessee was subjected to audit, as a member of the Large Taxpayer Unit (LTU). In the course of the audit, it was noticed that Service Tax to the tune of ₹48,20,574/- had not been paid. The CESTAT found that the respondent assessee, after finalisation of provisional assessment for the relevant period 2002-03 had reconciled its figures during the process after noticing the discrepancy and had informed about this to the concerned department.

Having regard to this, the CESTAT was of the opinion that there was no intention to suppress facts. The CESTAT, however, further observed that being a public sector corporation, the assessee could not be said to indulge in such practices. The revenue, therefore, claims to be in appeal.

This Court holds that there is no substantial question of law given the circumstances which were found, i.e.as to the inadvertence. At the same time, this Court is of the opinion that the CESTAT's observations with respect to the assessee being a public sector entity and, therefore, not capable of suppressing facts cannot be construed as widely. The facts and circumstances of each case would have to be examined by the authorities in the light of the declarations made.

No substantial question of law, however, arises. The appeal is accordingly dismissed in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 16, 2016
'ajk'