NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No.16 of 2017

Commissioner Central Excise Customs & Service Tax, Bilaspur, Chhattisgarh

----Appellant

Versus

M/s Bharat Aluminium Company Ltd. Balco Nagar, Korba, Chhattisgarh

------Respondent

For Appellant: Shri Vinay Pandey, Advocate.
For Respondent: None.

Hon'ble The Chief Justice

Hon'ble Shri Justice Sanjay Agrawal

Order on Board

Per **Deepak Gupta, Chief Justice**

2/2/2017

1. The only question involved in this case is whether the Revenue can take benefit of Section 11A(4) and claim enhanced limitation of 4 years. In this case, the last return was filed in May, 2011. The notices ordering reopening of the returns were issued on 10.2.2012 i.e. after one year and this related to the assessment years 2008-09, 2009-10 & 2010-11.

2. We are of the considered view that the view taken by the CESTAT is correct. The assessee has not withheld any fact; the assessee has not mis-stated any fact; the assessee has not suppressed any facts. The assessee may have been guilty of claiming wrong CENVAT credit but as pointed out by the CESTAT, there continues to be divergence of opinion with regard to the issue whether CENVAT credit can be claimed on the inputs used for setting

up the factory in which goods were manufactured. Therefore, it cannot be said to be a fraudulent claim or a claim which has an aspect of dishonesty attached to it. In this view of the matter, limitation would only be one year.

3. We therefore find no merit in the Appeal. The Appeal is dismissed.

Sd/-	Sd/-
(Deepak Gupta)	(Sanjay Agrawal)
CHIEF JUSTICE	**JUDGE**

Priya