NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No. 56 of 2017

Commissioner, Customs, Central Excise & Service Tax, Bilaspur, at Central Excise Bhawan, Dhamtari Road, Tikrapara, Raipur, Chhattigarh.

---- Appellant

Versus

M/s. Nalwa Steel & Power Ltd. At & Village Tataimal, Post Office Gerwani, Raigarh, Chhattisgarh.

---- Respondents

For Appellant : Shri Vinay Pandey, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri P. Sam Koshy, Judge.

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

19/06/2017

1. We have heard learned counsel for the Revenue in this appeal which is filed against the decision of the CESTAT.

2. In the attempt to show that the substantial question of law has been made out for admission of appeal in conformity with Section 35-G of the Central Excise Act, 1944, learned counsel for the Appellant pointed out that Annexure A/7, judgment of this Court in *Ambuja Cements Eastern Ltd. v. Commissioner of C.Ex. Raipur*, reported in *2010 (256) E.L.T. 690 (Chhattisgarh),* is pending before the Supreme Court of India as is evidenced by Annexure A/8. It is further pointed out that the Allahabad High Court has taken a different view through the judgment in Annexure A/16 {*Upper Ganges Sugar & Industries Ltd. v. Commr. Of Cus. & C. Excise* reported in *2015 (324) ELT 94 (All.)*}.

3. We have considered the said judgment in contra-distinction to the findings in Annexure A/7, judgment of this Court in *Ambuja Cements Eastern Ltd. (supra).* This Court had decided *Ambuja Cements Eastern Ltd. (supra)* by making reference to different judgments and also taking the view that certain other precedents which were referred to before this Court did not lay down the law correctly.

4. Having bestowed our anxious consideration to the judgment of this Court in *Ambuja Cements Eastern Ltd. (supra),* we are unable to hold that the views expressed therein require reconsideration by a larger quorum of this Court. We are therefore inclined to follow the said precedent. In such circumstances, this appeal is only to be dismissed.

5. In the result, the appeal is dismissed.

Sd/- **Sd/-**

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE

Anu