NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 14 of 2017

- M/s Deepak Industries A Sole Proprietorship Concern Of Mr. Ravindra Singh Having Their Factory At Kanhera Road, Accholi, Urla, Raipur, Chhattisgarh.

---- Petitioner

Versus

1. Commissioner Of Central Excise Raipur Having Office At Central Excise Building, A/ B Block, 1st Floor, Tikrapara, Raipur, Chhattisgarh.
2. Additional Director General Directorate General Of Central Excise Intelligence, Mumbai Zonal Unit, Illrd Floor, N T C House, 15, N. M. Road, Ballard Estate, Mumbai 400 001

---- Respondent

For Petitioner : Shri Animesh Sinha, Advocate.
For Respondents : Shri Vinay Pandey, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

06/01/2017

1. Learned counsel for the petitioner would submit that the petitioner had earlier approached the appellate authority of the Customs, Excise, Service Tax Appellate Tribunal (for short 'CESTAT') by preferring an appeal under Section 35-B of the Central Excise Act, 1944, however, the Registrar of the CESTAT refused to accept the memo of appeal for the reason that the impugned order has been passed by the Superintendent, Excise Raipur and not by the Commissioner.

2. When the present petition was taken up in the pre-lunch session, Shri Vinay Pandey, learned Standing Counsel for the Revenue was directed to seek instructions as to whether the impugned order has been passed by the Commissioner or by the Superintendent. In the post-lunch session, Shri Pandey would submit, on instructions, that the order has been passed by the Commissioner and the document (Annexure-P/1) is only a communication intimating the petitioner about the decision taken by the Commissioner.

3. If that be so, the petitioner shall appear before the Commissioner, Central Excise, Raipur on Monday i.e. **9.1.2017** to obtain duly authenticated copy of the order passed by the Commissioner. The petitioner may thereafter prefer an appeal before the CESTAT, in accordance with law. In the event, such appeal is preferred, the CESTAT shall consider it on merits without raising plea of limitation.

4. With the direction aforesaid, the Writ Petition is disposed of.

CC today.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve