

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TAXC No. 79 of 2017

- P.D. Industries Pvt. Ltd. Khasra No. 104, Siltara Khar Area, Raipur, Chhattisgarh

---- Appellant

Versus

- Union Of India Through Commissioner Of Customs, Central Excise Raipur, Central Excise Building, Dhamtari Road, Tikrapara, Raipur, District Raipur, Chhattisgarh 492001

----Respondent

For Appellant	: Shri Vinay Jain, Advocate
For Respondent	: Shri Vinay Pandey, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice
27.07.2017

1. Heard the learned counsel for the appellant and the Revenue.
2. The impugned Annexure- A/1 final order of CESTAT (Central Excise & Service Tax Appellate Tribunal) is issued dealing with two appeals. The Department appeal and the Assesse's appeal were against the order issued by the Commissioner on 26.03.2010. Appeal No. E/1944/2010/EX (DB), filed by the appellant M/s PD Industries Private Limited was dismissed. CESTAT considered Appeal No.3150 of 2010/EX filed by the Revenue and made an order remit for reconsideration of the issues stated therein.

3. Since the Tribunal was dealing with a single order of the Commissioner, it would have been only appropriate that all issues ought to have been left open for reconsideration following the order of remand, having regard to the quality of the findings rendered by the Tribunal in Appeal No.3150 of 2010/EX, filed by the Revenue. This is, because issues are likely to overlap in determining the amount which could be treated as lawfully due to the Revenue from the Assessee and such amounts as the establishment may be entitled to claim.

4. For the aforesaid reasons, we modify the impugned Annexure- A/1 order, vacate the dismissal of Appeal No.E/1944/2010 EX (DB) and direct that the order of remand made through Annexure- A/1 final order shall be treated as a comprehensive one leaving open all questions for reconsideration by the Commissioner, on facts and materials and in accordance with law. The appeal is ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge