NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No. 63 of 2017

Commissioner, Central Excise, Customs & Service Tax, Raipur.

---- Appellant

Versus

Simplex Castings Ltd. Plot No. 750, Urla Industrial Area, Raipur Chhattisgarh.

---- Respondent

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

20/06/2017

1. We have heard learned counsel for the Revenue quite in extensio in this appeal filed under Section 35-G of the Central Excise Act, 1944 (hereinafter referred to as 'the Act')

2. The short issue on which the case revolves is as to the applicability or otherwise of Section 11-A of the Act. The facts have been considered appropriately by the Tribunal. It was concluded by the Tribunal that in the absence of any specific finding by the Departmental authorities as to the involvement of the Assessee in the fraudulent activities concerning fraud, collusion, suppression of facts etc. Section 11-A of the Act cannot be resorted to particularly when the Assessee's return was duly filed and there was no exercise carried out in conformity with Rule 12 of the Central Excise Rules, 2002 calling upon the Assessee to produce further documents or materials. That rule provides for further scrutiny. This is a provision which enables the Department through the appropriate officer to scrutinize the return and take a final decision in that matter. Without resorting to such power which was there, the Department was unjustified in invoking Section 11-A of the Act, as has been rightly found by the Tribunal. We do not find any substantial question of law arising for decision in this appeal at the instance of the Revenue.

3. In the result, the appeal is dismissed in *limine*.

Sd/- Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE

Anu