NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No. 92 of 2017

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

---- Appellant

Versus

M/s. Bhilai Steel Plant (M/s BSP), a unit of M/s Steel Authority of India Ltd. (M/s SAIL), Bhilai, Dist – Durg (C.G.)

---- Respondent

For Appellant : Shri Vinay Pandey, Advocate.

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

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

04/07/2017

1. Having heard the learned counsel for the Appellant-Revenue, we see that the issue sought to be raised is one which cannot be treated as giving rise to common substantial question of law for decision in favour of the Revenue in an appeal under Section 35G of the Central Excise Act, 1944. The adjudicating authority concurrently held that there is no fiscal removal of the capital goods and that the concept of removal as delineated by the Hon'ble Supreme Court of India in *J.K. Cotton Spinning and Weaving Mills Ltd. vs. Union of India, 1987 (32) ELT 234 (SC)* and the decision of the learned Tribunal in the case of *L.G. Balakrishnan and Bros. Ltd. vs. C.C.E., Trichy–2016–TIOL–2356–CESTAT-MAD* cover the issue in favour of the Assesse. It is accordingly held, even on assimilation of facts that 'removal' in the case in hand does not include any fiscal removal of goods from one place to other.

2. For the aforesaid circumstances, we are of the view that this appeal does not deserve to be entertained. In the result, the appeal is dismissed in *limine*.

Sd/- **Sd/-**

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

(Sharad Kumar Gupta)
JUDGE

Anu