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HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No.59 of 2016

Farhat Construction Qtr. No.2 H Street 15-A, Sector 2, Bhilai, District- Durg, Chhattisgarh 490001

----Appellant

Versus

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

------Respondent

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

Hon'ble The Chief Justice

Hon'ble Shri Justice Sanjay Agrawal

Order on Board

Per **Deepak Gupta, Chief Justice**

24/1/2017

1. This Appeal is directed against the order of the Customs, Central Excise & Service Tax Appellate Tribunal, New Delhi (hereinafter referred to as 'the Tribunal') dated 15.9.2015 whereby the Tribunal directed the Appellant (hereinafter referred to as 'the Assessee') to deposit a sum of Rs.40 lacs in terms of Section 35 of Central Excise Act, 1944.

2. The grievance of the Appellant is that as against the total demand of Rs.1,09,65,371/-, a sum of Rs.30,32,877/- has already been deposited by the Appellant itself and that an amount of Rs.76,10,443/- has been deposited by M/s Hindustan Steel Corporation Limited (hereinafter referred to as 'the HSCL') on behalf of the Assessee.

3. The Tribunal rejected the contention of the Appellant with regard to any amount being deposited by the HSCL. The Appellant along with this Appeal, had annexed certain letters and thereafter we had directed the Respondent/Revenue

to file an affidavit. This affidavit has been filed. Along with this affidavit, two documents have also been filed. In the document Annexure D-1, the HSCL has written that since number of agencies are working for it, it cannot give agency wise details with regard to the service tax deposited. This letter is dated 9.8.2012. However, there is a second letter on record which is dated 28.11.2013. In this letter it is stated that HSCL has deposited a sum of Rs.76,10,443/- on behalf of the Assessee. On behalf of the Revenue, it is stated that it is still not clear what is the exact amount deposited by HSCL on behalf of the Assessee. If money has been deposited by HSCL and has not been credited to the Account of Revenue, then it must be credited to somebody's account. It is not for this Court to ascertain this fact. The fact remains that as per HSCL, they have deposited the sum on behalf of the Assessee. We are not accepting this letter to be correct in this writ proceeding. We expect the Tribunal to go through this letter and ascertain from the Revenue whether this fact is true or not and then to pass an order taking into consideration the fact whether such amount is deposited or not.

4. In view of the above discussion, we set aside the order of the Tribunal. We direct the Tribunal to reconsider the matter after taking into consideration this letter and after ascertaining what is the amount deposited by the HSCL on behalf of M/s Farhat Constructions.

5. With the above directions, the instant Appeal is disposed of.

Sd/-	Sd/-
(Deepak Gupta)	(Sanjay Agrawal)
CHIEF JUSTICE	**JUDGE**

Priya