IN THE HIGH COURT OF JUDICATURE AT BOMBAY, BENCH AT AURANGABAD

CENTRAL EXCISE APPEAL NO. 52 of 2015

The Commissioner of Customs,
Central Excise & Service Tax,
N-5, Town Centre, CIDCO, Aurangabad ...**APPELLANT**

VERSUS

M/s. Jolly Board Ltd.,
J-6, M.I.D.C., Chikalthana,
Aurangabad - 431006 ...**RESPONDENT**

Mrs Dr. Kalpalata Patil-Bharaswadkar Advocate for appellant.
Mr Raviraj R. Chandak, Advocate for respondent.

CORAM : PRASANNA B. VARALE, AND SUNIL K. KOTWAL, JJ.

DATE : 18th December 2017

ORAL ORDER :

Heard Mrs. Bharaswadkar, learned Counsel for the appellant and Mr Chandak, learned Counsel for the respondent (original appellant).

2. The appellant is before this Court challenging the order dated 6th March 2014 passed by the Customs Excise & Service Tax, West Zonal Bench, at Mumbai. The respondent had approached the Tribunal by filing an application for rectification of mistake in the order

passed by the Tribunal dated 6th January 2014. The application was allowed. Being aggrieved by the order of the Tribunal, appeal was filed raising substantial question of law, namely, whether the Customs,Excise & Service Tax Appellate Tribunal was correct in holding that the manufacturer of exclusively exempted goods is entitled for refund of Central Value Added Tax credit of inputs and inputs services used in exported goods irrespective of the fact that the manufacturer of the exempted goods is not entitled to take Central Value Added Tax Credit on inputs and input services in terms of Rule 6(1) of the Central Value Added Tax Credit Rules 2004 ?

3. Mr Chandak, learned Counsel appearing for the respondent, submitted that the identical issue was before this Court for consideration in bunch of appeals, namely, Central Excise Appeal No. 4 of 2014 and other connected appeals. Mr Chandak by inviting our attention to the judgment of the Division Bench in said Appeal No. 4 of 2014 dated 2nd September 2016 submitted that this Court on finding that no substantial question of law was involved and also in view of the judgment of the High Court of Himachal Pradesh as well as the judgment of the Apex Court confirming the judgment of the Himachal Pradesh High Court, dismissed the appeals.

4. Our attention was invited to judgment of this Court dated 2nd September 2016, more particularly, to the paragraphs No. 7 to 10 of the judgment. On perusal of the material placed on record alongwith appeal and on perusal of the substantial question of law framed in the appeal, we find considerable merit in the submission of Mr Chandak, learned Counsel appearing for the respondent. This Court in its detailed judgment dealt with the aspect, namely, that no substantial question of law is involved in the present appeal and the judgment of the Himachal Pradesh High Court covers the subject matter and the judgment of the Himachal Pradesh High Court is confirmed by the Hon. Apex Court. We see no reason to take any different view than the view adopted by this Court in the judgment and order in Central Excise Appeal No. 4 of 2014 with other connected matters, dated 2nd September 2016.

5. Resultantly, the appeal is dismissed.

6. Needless to state that in view of the dismissal of the appeal, pending applications are also disposed of. No separate orders are required to be passed in the applications.

(SUNIL K. KOTWAL)
JUDGE.

(PRASANNA B. VARALE)
JUDGE.

Madkar