The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Challa Kodanda Ram

C.E.A.No.176 of 2017

Dt: 02-11-2017

Between:

Commissioner of Central Excise and Service Tax
Hyderabad-IV Commissionerate
Hyderabad

….Appellant

and

M/s.Jay Engineering Works Ltd.,
Hyderabad
(presently M/s.Usha International Ltd.,)

….Respondent

Counsel for the Appellant: **Mr.B.Narasimha Sarma,**
Sr.SC for Customs, Central Excise and Service Tax

The Court made the following:

Judgment: **(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

The Commissioner of Customs, Central Excise and Service Tax, Hyderabad Commissionerate, filed this Appeal feeling aggrieved by Common Order, dated 24-08-2016, to the extent it pertains to Appeal No.E/817/2009-DB on the file of the Customs, Excise and Service Tax Appellate Tribunal, Regional Bench at Hyderabad (for short 'the Tribunal').

The issue before the Tribunal pertains to the liability of the appellant to pay interest on the claim for refund of excise duty paid by the respondent-assessee. The Commissioner (Appeals) allowed the claim of the assessee. Based on the detailed reasons given by the Tribunal, the order of the Commissioner (Appeals) was confirmed.

At the hearing, the only submission made by Mr.B.Narasimha Sarma, learned Senior Standing Counsel for Customs, Central Excise and Service Tax, is that Section 11 BB of the Central Excise Act, 1944 (for short 'the Act'), has come into force on 26-05-1995; that the refund claim pertains to the period from July, 1985 to September 1996 and that therefore, the said provision is not applicable to the present case.

In paragraph 8 of its order, the Tribunal has dealt with this aspect by observing that from the facts of the case, it is clear that the provisional assessment itself was finalized only on 27-08-1998 and that the refund claim was filed on 23.02.1999 *i.e.,* much after the provisions of Section 11 BB of the Act coming into force. In other words, the cause for the respondent- assessee to claim refund as well as interest arose only after the commencement of the afore-mentioned provisions providing for payment of interest on belated refunds. In this view of the matter, the Tribunal has not committed any error in dismissing the appeal filed by the appellant.

In view of the above, no substantial question of law arises in this Appeal and the same is, accordingly, dismissed.

(C.V.Nagarjuna Reddy, J)

(Challa Kodanda Ram, J)

Date: 02-11-2017
lur