IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO. 235 OF 2016

The Commissioner of Central }
Excise and Service Tax } Appellant
versus
M/s. Sterlite Optical }
Technologies Ltd. } Respondents

Mr. Swapnil Bangur with Ms. Shalaka Gujar for the appellant.

None for the respondents.

CORAM :- S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE :- JANUARY 16, 2018

P.C. :-

1. By this appeal, the revenue challenges the order passed on 11th December, 2008 passed by the Central Excise and Service Tax Appellate Tribunal (CESTAT).

2. It is stated fairly that by the order-in-original, the assessee has been called upon to pay a sum of Rs.2,13,600/ as demand of service tax, Rs.500/- as penalty and interest at the rate of 15% per annum under section 75(A) of the Finance Act, 1994 plus penalties and the whole operative order confirming the demand at page 28 of the paper book reads as under:-

> "(i) I confirm the demand of Service Tax amounting to Rs.2,13,600/- (for the year 2002-2003) as detailed in the annexure to this SCN under Section 68 read with Section 73(a) of the Finance Act, 1994;
>
> (ii) I impose penalty of Rs.500/- on M/S Sterlite Optical Technologies Ltd. for failure to register themselves for payment of Service Tax under Section 69 read with Section 75(A) of the Finance Act, 1994;
>
> (iii) I order to recover interest @ 15% per annum from M/S Sterlite Optical Technologies Ltd. under Section 75 of the Finance Act, 1994;
>
> (iv) I impose penalty @ Rs.200/- per day on M/S Sterlite Optical Technologies Ltd. from the date of service tax payable under Section 76 of the Finance Act, 1994;
>
> (v) I impose penalty of Rs.1000/- on M/S Sterlite Optical Technologies Ltd. under Section 77 of the Finance Act, 1994 for failure to furnish prescribed periodical return in form Service Tax-3;
>
> (vi) I impost penalty of Rs.106800/- on M/S Sterlite Optical Technologies Ltd. under section 79 of the Finance Act, 1994 for suppression of taxable value."

3. Even if one takes all these sums and add up, we do not find that the same would exceed the quantification or the maximum amount which is stipulated in the Revenue circular, which binds the Revenue. Meaning thereby, a litigation involving any amount which is below a specific limit would not be pursued by the Revenue as a Wise Litigation Policy and part and parcel of the decision taken in larger public interest. Once we find that the demand of the above sum does not exceed the amount mentioned in this circular, then, no purpose will be served by keeping this appeal pending.

4. By clarifying that the substantial questions of law are kept open for being considered in an appropriate case, we dispose of the present appeal.

(SMT. BHARATI H. DANGRE, J.) **(S.C.DHARMADHIKARI, J.)**