THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION Nos.34972, 34988, 34990 & 35042 of 2017

COMMON ORDER: (per SK,J)

The petitioner companies in this batch of cases seek implementation of the Orders-in-Appeal individually passed against each of them by the Commissioner of Customs & Central Excise (Appeals), Guntur, as affirmed by the Customs, Excise and Service Tax Appellate Tribunal, Bangalore, *vide* final order dated 29.11.2010 in a batch of appeals. A consequential direction is sought to refund the amounts due to each of the petitioner companies.

Sri M.Naga Deepak, learned counsel for the petitioner companies, would inform this Court that four companies were covered by the orders under reference and in so far as Shiv Shankar Minerals Limited, one out of the four companies, is concerned, this Court already granted relief to it in W.P.No.12731 of 2013.

The order dated 19.09.2013 passed by a Division Bench of this Court in the said writ petition is placed on record. Perusal thereof reflects that the Division Bench was of the opinion that merely because a Special Leave Petition had been filed before the Supreme Court against the order of the Tribunal, the authorities could not withhold the monies which were otherwise determined to be due to the assessee. The Division Bench accordingly held that the petitioner company in that case was entitled to a refund and directed the authorities to give effect to and implement the Order-in-Appeal passed in its case which was confirmed by the Tribunal *vide* order dated 29.11.2010.

Sri B.Narasimha Sarma, learned counsel for the Revenue, would fairly concede that the aforestated Division Bench order attained finality. He would however state that the Special Leave Petitions filed before the Supreme Court in relation to the petitioner companies in this batch of cases are coming up for hearing on 29.08.2018.

In the light of the aforestated Division Bench order, we are of the opinion that when one out of the four companies covered by the common order passed by the Tribunal stood benefited, there is no reason as to why the other three should be deprived.

The writ petitions are accordingly allowed holding that the petitioner companies would be entitled to the refunds that may be found to be due to them notwithstanding the pendnecy of the Special Leave Petitions before the Supreme Court as no orders of stay have been granted therein. In that view of the matter, the Assistant Commissioner of Customs and Central Excise concerned shall reassess the shipping bills and in the event the petitioner companies are found to be entitled to any refund pursuant to such reassessment, the same shall be remitted. This exercise shall be completed expeditiously and in any event, not later than ten weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR,J

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T.AMARNATH GOUD,J

Date:08.08.2018

GJ