**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CEA No.91 of 2011 (O&M)
Date of Decision.21.08.2018**

Commissioner of Central Excise Commissionerate Ludhiana
...Appellant

Vs

M/s Hero Cycle Limited ...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Arun Kumar, Advocate for
Mr. Anshuman Chopra , Advocate
for the appellant.

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<u>RAJESH BINDAL J.</u>

The appellant in the present appeal has challenged the order dated 21.01.2011 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi arising out of Appeal No.E/1313/2005-EX(DB), raising the following substantial questions of law:-

> "(i) Whether the judgment and order passed by the Tribunal is proper and legal?
>
> (ii) Whether credit on inputs removed from the premises of depot without the cover of valid duty paying documents as prescribed under erstwhile Rule 57GG of the Central Excise Rules, 1944 is admissible on the invoices issued by the manufacturer of such inputs i.e. whether credit is admissible without following the provisions laid down under the Statute?

(iii) Whether penalty can be imposed less than the recovery of Modvat (now CENVAT) credit confirmed by the CESTAT under Rule 57-I (4) of the erstwhile Central Excise Rules, 1944 read with Section 11 AC of the Central Excise Act, 1944."

At the very outset, learned counsel for the appellant submitted that the amount involved in the present appeal is ₹ 30,22,774/-. As the amount involved is less than the limit prescribed in the Circular issued by the Central Board of Indirect Taxes & Customs (Judicial Cell) dated 11.07.2018, the present appeal be dismissed as not maintainable.

Ordered accordingly.

However, it is made clear that dismissal of present appeal will not be taken as upholding the order passed by the Tribunal as the legal issue raised therein is left open to be considered in an appropriate case.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

August 21, 2018
Pankaj*/yogesh sharma

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**