IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 101 CEA No. 19 of 2017 (O&M)

Date of decision : 07.05.2018

Commissioner Central Excise & Service Tax ..... Appellant

VERSUS

M/ Goldtex Furnishing Industries ..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. S.K.Daaria, Advocate, for
Mr. Sharan Sethi, Advocate, for the appellant.

Mr. Amrinder Singh, Advocate, for the respondent.

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RAJESH BINDAL, J:

The appellant-revenue is in appeal against order dated 21.01.2015, passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi (for short-the 'Tribunal'). In the appeal the following substantial question of law has been raised: -

> "Whether the CESTAT is justified in allowing CENVAT Credit on inputs lying in stock, inputs contained in finished goods and inputs contained in work in process when the finished final products became exempted from duty subsequently as per Notification No. 30/2004-CE dated 09.07.2004?"

A perusal of the order passed by the Tribunal shows that while accepting the appeal, the Tribunal has relied upon an earlier order passed by the Larger Bench of the Tirbunal in **H.M.T. vs. CCE Panchkula**-2008 (232) ELT 217 (Tri-LB). It has further been noticed that the aforesaid view of the Larger Bench of Tribunal was approved by the Karnataka High Court in **CCE Bangalore-II vs. Tafe Ltd. (Tractor Division)**-2011 (268) ELT 49 (Kar.).

Despite six adjournments sought nothing has been pointed out as to whether the aforesaid orders of the Larger Bench of the Tribunal or the Karnataka High Court in CCE Bangalore's case (supra) were set aside by Hon'ble the Supreme Court or that even an appeal is pending against either of the aforesaid orders.

Though notice in the appeal has not been issued, however, learned counsel for the respondent-assessee is present in Court. He cited an order passed by this Court in **Commissioner of C. Ex., Panchkula vs. HMT (TD) Ltd**. 2015 (322) E.L.T 342 (P&H), whereby the larger Bench order of the Tribunal as referred to above was affirmed by a Division Bench of this Court. We were further informed that Special Leave Petition (Civil) against the aforesaid order of this Court was dismissed by Hon'ble the Supreme Court on 11.03.2016.

Keeping in view the aforesaid facts, we do not find that any substantial question of law arises in the present appeal.

Dismissed.

[RAJESH BINDAL]
JUDGE

[DEEPAK SIBAL]
JUDGE

07.05.2018
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Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No