

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

CRM-M-42622-2013 (O&M)

Date of Decision: 29.08.2018

M/s Surya Board Limited and another

... Petitioners

Vs.

Central Excise through Sh. Kuldeep Singh, Assistant Commissioner, Central
Excise Division Rohtak

... Respondent

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Amrinder Singh, Advocate
for the petitioners.

Mr. Sourabh Goel, Advocate
for the respondent.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has sought for quashing of complaint No.37-2 dated 28.03.2011 titled Central Excise Versus M/s Surya Board Limited and another (Annexure P-1) and the subsequent proceedings, pending in the Court of the Chief Judicial Magistrate, Jhajjar, including summoning order dated 28.3.2011 (Annexure P-2).

2. Certain issues which were arising out of the complaint in question was subject matter of litigation before the Tribunal which were decided on 29.7.2013 in favour of the petitioner. Feeling aggrieved by the order dated 29.7.2013 passed by the Tribunal, respondent-department preferred a petition before this Court and it was disposed of as not maintainable vide order dated 10.8.2016. In view of the observations made by this Court relating to maintainability of petition, respondent-department had remedy before the Supreme Court which has not been availed. Thus, order passed by the Tribunal has attained finality in favour of the petitioner.

3. In view of the above development, complaint No.37-2 dated 28.03.2011 titled Central Excise Versus M/s Surya Board Limited and another (Annexure P-1) and the subsequent proceedings, pending in the

Court of the Chief Judicial Magistrate, Jhajjar, including summoning order dated 28.3.2011 (Annexure P-2) do not survive for consideration and are set aside.

4. Petition stands allowed accordingly.

29.08.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**