102-A+222/4

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.12618 of 2016 (O&M)
Date of Decision: 09.08.2018

M/s Shiva Mint Industries

...... Petitioner

Versus

Union of India and another

.... Respondents

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

Present: Mr. Suman Jain, Advocate and
Mr. Shubham Jain, Advocate
for the petitioner.

Mr. Tajender K. Joshi, Advocate
for respondent No.2.

RAJESH BINDAL J.

The petitioner filed the present petition impugning the show cause notice dated 04.10.2012. The writ petition was allowed and show cause notice was set aside vide order dated 17.06.2016. However, subsequently, application was filed by the department seeking review of the order. The same was allowed vide order dated 11.05.2018. Along with the application, order passed by the Commissioner, Central Excise Duty Commissionerate Chandigarh-II to show cause notice, which was impugned before this Court, was annexed. The order was passed on 08.06.2016.

It is not in dispute that against the order passed by the Commissioner, remedy of appeal is available before the Customs, Excise & Service Tax Appellate Tribunal (for short 'the Tribunal').

Keeping in view the aforesaid fact, we find it appropriate to relegate the petitioner to avail of his remedy of appeal before the Tribunal. Considering the fact that initially show cause notice was set aside and the order was recalled by this Court on 11.05.2018. In case appeal is filed within one month from the date of receipt of copy of the order, the same shall be considered and decided by the Tribunal on merits subject to compliance of pre-conditions for entertainment of appeal. The writ petition stands disposed of accordingly. Consequently, the accompanying application for amendment of the writ petition is also dismissed.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

09.08.2018
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No