IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.9541 of 2017 (O&M)
Date of Decision.16.07.2018

M/s GNA Gears Ltd. ...Petitioner

Vs

Union of India and another ...Respondents

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

Present: Mr. Jagmohan Bansal, Advocate
for the petitioner.

Mr. Tajender K. Joshi, Advocate
for the respondents.

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RAJESH BINDAL J.

Order passed by the Customs, Excise and Service Tax Appellate Tribunal (for short, the Tribunal) dated 05.04.2017 dismissing the appeal of the petitioner on account of failure to deposit the amount required for entertainment of appeal, has been impugned by filing the present writ petition.

Learned counsel for the petitioner submitted that the petitioner is engaged in manufacture of motor vehicle parts as well as agricultural equipments. He had paid duty @12% on motor vehicle parts, however, treating the agricultural equipments to be exempted, duty @6% was paid by way of reversal of credit in the CENVAT credit account. The authorities found that in fact, the duty was payable thereon @12%, hence, show cause notice was issued and demand of ₹13,86,31,711/- was raised against the petitioner. The amount of ₹6,79,35,479/-, which was already paid by way of reversal in the Input Tax Credit Account was not adjusted.

The argument is that about 50% of the demand had already been paid, hence, the condition of pre-deposit of 7.5% should have been considered as complied with and the appeal should have been heard on merits.

Learned counsel for the respondents submitted that any assessee is required to deposit 7.5% of the amount of demand raised, which the petitioner failed to deposit, hence, appeal has rightly been dismissed on failure to comply with the pre-requisite condition of deposit.

After hearing learned counsel for the parties, in our view, admittedly, out of the demand of ₹ 13,86,31,711/-, a sum of ₹ 6,79,35,479/- had been deposited by the petitioner by way of reversal of credit in his CENVAT credit account, hence, taking care of that amount, actual demand from the petitioner would be ₹ 7,06,96,232/-.

Let the petitioner deposit 7.5% on ₹ 7,06,96,232/- within a period of six weeks. On doing the needful, the appeal filed by the petitioner be heard by the Tribunal on merits. It may be added that we have not expressed any opinion on the merits of the case.

The petition stands disposed of.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 16, 2018
Pankaj*

Whether speaking/reasoned Yes/No
Whether reportable Yes/No