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

STA No.18 of 2018 (O&M)
Date of Decision.23.08.2018

Commissioner of Central Excise & Service Tax Commissionerate, Chandigarh-II now (Commissioner of Goods & Services Tax, Ludhiana)

...Appellant

Vs

M/s Bharat Sanchar Nigam Ltd. ...Respondent

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

Present: Mr. Sourabh Goel , Advocate
for the appellant.

-.-

RAJESH BINDAL J.

The appellant in the present appeal has challenged the order dated 17.05.2017 passed by the Customs, Excise and Service Tax Appellate Tribunal, Chandigarh arising out of Appeal No.ST/847/2012, raising the following substantial questions of law:-

"(i) Whether the learned CESTAT is correct in holding that the extended period of limitation is not invocable and therefore, the demands beyond the normal period of limitation were set aside and the penalties imposed on the appellants were also set aside without deciding the basic issue of admissibility of Cenvat credit and also without considering the facts of suppression?

(ii) Whether the Learned CESTAT has committed an error in ignoring that tower, shelter and antenna for which the Cenvat Credit has been denied was held to be immovable property by the High Court for Judicature at Bombay in Commissioner of C. Ex.Mumbai-IV Vs. Hutchison Max Telecom P. Ltd. 2008 (224) ELT 191 (BOM) and therefore once the goods were immovable property, there was no alleged dispute regarding the admissibility of Cenvat Credit and due to suppression of facts, the extended period of limitation was rightly invoked?

(iii) Whether the Learned CESTAT has committed a grave error in not returning any finding and relying only upon its interim order dated 3.3.2016 to hold that the extended period of limitation under Section 11 (A) of the Central Excise Act, 1944 is not invocable and the demand beyond extended period of limitation had wrongly been set aside?

(iv) Whether the Learned CESTAT has erred in holding that since the issue regarding the admissibility of the Cenvat Credit on towers, shelters and antenna was pending before the Tribunal, therefore the extended period of limitation is not invocable?

(v) Whether the impugned final order dated 17.5.2017 passed by Learned CESTAT is perverse, non speaking and unreasoned and therefore the same is liable to be set aside in the interest of justice?”

At the very outset, learned counsel for the appellant submitted that the amount involved in the present appeal is ₹ 30,73,946/-. 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 23, 2018
Pankaj*

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**