IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.26 OF 2018

The Commissioner of Central Excise & Service Tax-Large Tax Payer Unit ... Appellant

Vs

Reliance Industries Ltd. ... Respondent

Ms.P.S.Cardozo I/b V.A.Bajpayee for the Appellant.

Roshil Nichani, Shilpa Balani I/b A.S.Dayal & Associates for the Respondent.

CORAM :- S. C. DHARMADHIKARI & M. S. KARNIK, JJ.

DATE :- MARCH 8, 2019

P.C. :-

1. The memo of the appeal at the instance of the Revenue in paragraph 13 contains the following statements.

> "The Appellant submits that the disputed claim in this appeal is valued (disputed tax effect) at Rs.45,17,294/- (Service Tax) accordingly the fixed court fee of Rs.200/- has been paid on this appeal.

2. An objection is raised by the assessee's advocate and he would submit that there is a Circular of the Revenue bearing F.No.390/Misc./116-2017-JC which binds the Revenue and which says that in the event, the monetary limit or the tax effect is

below Rs.50,00,000/-, then, the Revenue will not press any appeal in the High Court.

3. On the other hand, learned advocate for the Revenue Ms.Cardozo would submit that irrespective of this Circular, there is no mandate to withdraw the appeal for it indeed raises substantial question of law. She is, therefore, instructed by the Revenue to argue it.

4. We have heard both sides on the point and which we do not think is any longer *res integra.*

5. A Circular issued by the Revenue binds the Revenue but, it may not bind the Court or the assessee. We have here a situation where the Revenue's advocate seeks to disown the Circular and seeks to brush it aside in this case. If such a tend is allowed, in future every matter filed by the Revenue will chart the same course. In every case, the Revenue proposes certain questions and terms them as substantial questions of law. They would submit that the provision of the Act, namely, the Central Excise Act, 1944 enables them to present the appeal and it is otherwise maintainable. However, we are of the firm opinion that once such Circulars are issued and to sub-serve larger public interest, then, we should not make any exception.

6. As a result of the above discussion, we are of the opinion that the Revenue's Circular covers this matter. The appeal is dismissed on account of the same. However, the question proposed by the Revenue is kept open for being raised in a appropriate case. We clarify that we have disposed of this appeal only because of low tax effect.

(M.S.KARNIK, J.) **(S.C.DHARMADHIKARI, J.)**

M.M.Salgaonkar