

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

CEA 17/2012 (O&M)

Date of decision:17.10.2019.

Commissioner of Central Excise and Service Tax

.....Appellant.

V.

M/s Parle Biscuits Pvt.Ltd.

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Hon'ble Mr.Justice Ramendra Jain

Present:- Mr.Tajender .Joshi,Advocate for the appellant.

Jaswant Singh,J.

Revenue filed the instant appeal under Sections 35 G of the Central Excise Act,1944 against the order dated 25.2.2011 (Annexure A-3) passed by CESTAT,remanding the matter back to jurisdictional Commissioner for re-quantification of duty demand falling within the normal limitation period and setting aside the penalty on the respondent company and on Sh.Rajender Monga,Asstt.Manager (Excise) of the respondent-company.

The appeal stands admitted for determination of following substantial question of law:-

“Whether in view of the facts and circumstances of the case, Hon'ble CESTAT is correct in holding that the recovery of duty demand, the longer limitation period would not be available to the Department and in holding that the same can be recovered only for the normal limitation period particularly when the demand has been held to be correct on merits, even when details privi of the party were neither disclosed to the department for correct assessment nor they themselves do so despite an undertaking to this effect given vide letter dated 30.4.2002 which they never provided and misled the department till the detection by the department during scrutiny by preventive officers?”.

Now an application bearing CM 21252-CII/2019 has been filed seeking to withdraw the appeal. It is averred in the application that Central Board of Indirect Taxes and Customs has issued instruction dated 22.8.2019 and revised the monetary limit for filing appeal before this Court to Rs. One Crore Only and these instructions are applicable on pending cases also. It is further averred that in view of the said instructions, the counsel has written instructions from the office of Commissioner of Central Goods and Service Tax, Rohtak vide letter dated 16.9.2019(P-1) to withdraw the present appeal as the duty involved in this appeal is Rs. 79,26,630/-. The application is supported by an affidavit of the counsel for the petitioner.

In view of the prayer made in the application, duly

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supported by the affidavit, the same is allowed and CEA No.17/2012

is dismissed as withdrawn.

(Jaswant Singh)
Judge

17.10.2019.
joshi

(Ramendra Jain)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No