

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CEA 25/2019 (O&M)
Date of decision:10.09.2019

Commissioner of Central Goods and Service Tax

.....Appellant

v.

M/s Elkay Telelinks Limited.

.....Respondent

**Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Lalit Batra**

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

Jaswant Singh,J.

Since there is delay of 407 days in refiling the instant appeal, application has been filed seeking condonation of said delay.

Another application seeking condonation of delay of 13 days in filing the appeal has also been filed.

Main case.

Respondent- a Limited Company is engaged in the manufacture of goods falling under the Central Excise Tariff Act, 1985. It filed a refund claim of Rs.23,76,046/- which was rejected by the Adjudicating Authority vide order dated 18.1.2008. In appeal filed by the respondent Company, the Commissioner (Appeals) vide order dated 4.8.2009 upheld the order passed by the Adjudicating Authority. Thereafter the respondent Company filed an appeal before CESTAT. The said appeal was allowed by CESTAT vide order dated

20.1.2017. Hence the present appeal in which following substantial question of law has been raised:-

i) *Whether the non-fulfillment of a substantive condition of a Notification can be dispensed with terming the same as procedural and technical in nature and whether on on observance of the conditions of the notification, benefit of exemption can be extended to the Respondent?.*

At the time of hearing,learned counsel for the appellant admits that in view of instructions dated 22.8.2019 issued by Ministry of Finance,Department of Revenue, Central Board of Indirect Taxes and Customs (Judicial Cell) the instant appeal would not be maintainable before this Court, as claimed refund i.e. Rs.23,76,046/- is below the monetary limit of Rs. 1 Crore.

In view of the said instructions dated 22.8.2019 learned counsel for the appellant prays for withdrawal of the instant appeal, however the questions of law raised would remain open.

Dismissed as withdrawn with liberty aforesaid.

Since the main appeal has been dismissed as withdrawn, no orders are being passed on the applications seeking condonation of delay.

(Jaswant Singh)
Judge

10.09.2019.
joshi

(Lalit Batra)
Judge

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