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

STA No.5/2019 (O&M)
Date of decision:04.09.2019

Commissioner of Central Excise and Service Tax,Rohtak

.............Appellant

v.

M/s Aggarwal Traders

.............Respondent

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

Present:- Mr.Puneet Pali,Advocate for
Mr.Amit Goyal, Sr.Standing Counsel for appellant.

Jaswant Singh,J,

Respondent- a proprietary concern was engaged in the activity of providing erection, commissioning and installation services/work contract services to Dakshin Haryana Bijli Vitran Nigam (for short DHBVN) and Uttar Haryana Bijli Vitram Nigam (UHBVN) during the period 2009-10 to 2012-13 without obtaining service tax registration and without payment of service tax. Acting upon the information that DHBVN received various services from the respondent, details were sought. Respondent submitted copy of its balance sheet and Form 26AS. On scrutiny of documents, respondent was found to be engaged in providing erection, commissioning,installation services/work contract services upto 30/6/2012 and thereafter it took contracts for supply and erection.

On the basis of records, show cause notices dated 17.10.2014 and 23.04.2015 were issued to respondent to demand service tax on the services provided by it. Adjudicating authority vide order dated 30.12.2015(A-2) confirmed the service tax demand of Rs.11,20,077/- for the period from 2009-10 to 2012-13 and Rs.59,80,109 alongwith applicable interest and penalty for the period 2013-14. Aggrieved against the same, respondent filed an appeal before CESTAT,Chandigarh. The learned Tribunal vide order dated 22.3.2018 (A-3) allowed the appeal. Hence the present appeal.

Following substantial questions of law have been raised in the present appeal:-

i) Whether CESTAT's final order NO.A/62378/2018-CU (DB) dated 22.3.2018 is fair,legally correct and proper. If not, CESTAT's final order No. A/62378/2018-CU(DB) dated 22.3.2018 may kindly be set aside.
ii) The operation of said order dated 22.3.2018 may kindly be stayed till a final decision is taken.
iii) That the Orde-in-Original NO.22-23/ ST/ COMMR/ HG/ RTK/ 2015-16 dated 30.12.2015 passed by the Commissioner,Central Excise Commissionerate,Rohtak may kindly be restored.
iv) Any other order/relief as the Hon'ble High Court may deem fit.

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 demand amount i.e. 11,20,077/- for the period from 2009-10 to 2012-13 and Rs.59,80,109 alongwith applicable interest and penalty for the period 2013-14 is to be recovered, which 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 question of law raised would remain open.

Dismissed as withdrawn with liberty aforesaid.

(Jaswant Singh)
Judge

04.09.2019. **(Lalit Batra)**
joshi **Judge**

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