IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CEA 54/2019(O&M)
Date of decision:04.12.2019

The Principal Commissioner, Central Goods & Services Tax Commissionerate, Ludhiana

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

v.

M/s Sai Tex

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

Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Sant Parkash

Present:- Mr.Anshuman Chopra,Sr.Standing Counsel for CBIC

Jaswant Singh,J(Oral).

Revenue is in appeal under Section 35-G of the Central Excise Act,1944 against the order dated 5.3.2018 passed by CESTAT,Chandigarh whereby the appeal filed by the Revenue was dismissed and Order-in-Original passed by the Adjudicating Authority, exonerating the respondent from penalty was upheld.

In this appeal the following substantial questions of law have been raised:-

a. Whether dropping of penalty in view of payment of tax before show cause against the demand confirmed of wrongly availed Cenvat Credit of Rs.1,06,10,974/- under Rule 13 of Cenvat Credit Rules read with Section 11 AC against M/s Cannon Industries Pvt.Ltd., as proposed in the Show Cause Notice is legally correct and in order in view of the above discussions?
b. Whether non-imposition of any penalty on respondent as proposed in the Show Cause Notice is legally correct and in order in view of above discussions?
c. Whether the observations and findings contained in the impugned order are

perverse and contrary to law and to record and liable to be set-aside?

d. Whether the impugned order is a non-speaking order and Tribunal has failed to take into consideration all the arguments as raised by the appellant?

Notice of motion is yet to be issued.

At the time of hearing,learned counsel for the appellant, on instructions from the Department, prays for permission to withdraw the appeal 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), whereby the monetary limit for filing the appeal before this Court has been revised to Rs.1 crore and the proposed penalty in this appeal is below that limit.

In view of the above, the instant appeal alongwith applications seeking condonation of delay in filing/refiling and exemption are dismissed as withdrawn. However, the substantial questions of law raised herein would remain open.

(Jaswant Singh)
Judge

04.12.2019. **(Sant Parkash)**
joshi **Judge**

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