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

CEA 70/2019 (O&M)
Date of decision:22.10.2019.

Principal Commissioner of Central Goods and Service Tax, Ludhiana

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

v.

M/s Bassi Steels Limited.

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

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

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

Mr.Anurag Sharma,Advocate for
Mr.Jagmohan Bansal,Advocate for the respondent.

Jaswant Singh,J.

Revenue has filed the instant appeal under Section 35G of the Central Excise Act,1944 (for short the Act) assailing the order dated 23.10.2018 (A-3) passed by CESTAT whereby Order-in-Original dated 19.01.2012 (A-2) passed by the Adjudicating Authority was set aside and the matter was remanded back to Adjudicating Authority for re-adjudication.

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

i) Whether the impugned order passed by the Ld.CESTAT is sustainable after the Judgment/Order dated 17.6.2016 passed by this Hon'ble High Court in C.W.P.No.12615 of 2016, relied upon by the Tribunal has been recalled by this Hon'ble Court vide order dated 17.6.2016?

ii) Whether the impugned order is not liable to be set aside on account of perversity?

iii) Whether the Ld.Tribunal was not required to appreciate the evidence produced on record by the appellant?

iv) Whether the Ld.Tribunal was right in directing the Adjudicating Authority to examine the capacity of assessee to manufacture such a huge quantity and from where the electricity was procured to manufacture this quantity without appreciating the evidences of the revenue which were based on records and includes unaccounted purchase, cash sales of their goods and stock of raw material found short during stock verification?

v) Whether the impugned final order is sustainable in the eyes of law?

Facts emerging out of averments made in the appeal are that respondent Company allegedly indulged in evasion of Central Excise Duty by way of clandestine manufacturing and clearance of their finished goods i.e. M.S.Ingots. Accordingly show cause notice was issued. The Adjudicating Authority vide order dated 19.1.2012 decided the case and confirmed the demand of Rs.86,63,220/- under Section 11A alongwith interest and equal penalty. An amount of Rs.20,00,000/- was also imposed on Sh.Jiwan Singla,Director of the respondent Company. Aggrieved against the same, respondent filed appeal before CESTAT,which, as noticed above, set aside the order passed by the Adjudicating Authority and remanded the matter back for re-adjudication. Hence the present appeal.

The appeal is pending hearing.

In the meanwhile CM 21253-CII/2019 has been filed seeking permission 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 limits for filing appeal before this Court to Rs.1.00 Crore and the said instructions are applicable to pending appeal. It is further averred that office of Commissioner of Central Goods and Service Tax,Mohali has sent instruction to the effect that personal penalty involved in the appeal being Rs.86,63,000/- is below prescribed threshold limit and as such prayer for withdrawal of the appeal.

The application is supported by an affidavit of counsel for the appellant-Revenue.

In view of the averments made in the application, the same is allowed and appeal bearing CEA No.70/2019 is dismissed as withdrawn.

(Jaswant Singh)
Judge

22.10.2019. **(Lalit Batra)**
joshi **Judge**

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