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

CEA No.59/2019 (O&M)
Date of decision:19.12.2019

Pr.Commissioner of Central Goods and Service Tax

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

v.

Malwa Engineering

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

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

Present:- Mr.Tajender K.Joshi,Sr.Standing Counsel for appellant

Jaswant Singh,J(Oral).

Revenue is in appeal under Section 35G of the Central Excise Act,1944 against Final Order dated 25.10.2018 passed by CESTAT,Chandigarh, whereby demand of Central Excise Duty and Service Tax raised by Revenue against respondent-assessee has been set aside.

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

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

ii) Whether the impugned order is liable to be set aside on account of perversity?

iii) Whether the finding of the learned CESTAT that no finished goods has been fabricated by the appellant in their factory is not perverse.

iv) Whether the impugned order passed by the learned CESTAT is not against the facts and evidence of the case available on the case file?

v) Whether the small tanks/reactors which were manufactured by the appellant in their own factory and cleared after completion are not chargeable to Central Excise Duty?

vi) Whether the works executed by the assessee does not falls under "erection and commissioning service"?

vii)Whether the finding of the learned CESTAT to the effect that the works executed by the assessee falls under "works contract service" is sustainable in the eyes of law?

Notice of motion is yet to be issued.

At the time of hearing, learned counsel for the appellant prays for withdrawal of the appeal in view of instructions dated 22.08.2019 (A-1) issued by Central Board of Indirect Taxes and Customs in exercise of power conferred by Section 35(R) of the Central Excise Act made applicable to the Service Tax vide Section 83 of the Finance Act,whereby the monetary limit for filing appeal before the Hon'ble High Courts has been revised to Rs.1 Crore and these instructions will apply to the pending cases as well,as duty/service tax involved in this appeal is approx. Rs.68 lacs.

In view of the above, the instant appeal is dismissed as withdrawn. However, the substantial questions of law raised herein would remain open.

(Jaswant Singh)
Judge

19.12.2019. **(Sant Parkash)**
joshi **Judge**