IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CEA No.86/2019 (O&M)
Date of decision:19.12.2019

Commissioner of Central Excise And Service Tax

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

v.

M/s A.P. Organics Private Limited.

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

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

Present:- Mr.Sourabh Goel,Sr.Standing Counsel for appellant/ applicant

Jaswant Singh,J(Oral).

Revenue is in appeal under Section 35G of the Central Excise Act,1944 against Final Order dated 06/09/2018 passed by CESTAT,Chandigarh, whereby respondent has been held entitled for benefit of exemption Notification No.89/95-CE dated 18.5.1995 for waste arising during the course of refining of vegetable oils.

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

i) Whether the CESTAT is correct in allowing the benefit of exemption under Notification No.89/95-CE dated 18.5.1995 to by-products like Soap Stocks, Distilled Fatty Acids, Spent Fullers Earth, Phosphatides and Waxes arising during the course of manufacture of refined oil.

ii) Whether the learned Tribunal erred in relying upon its earlier decision in case of the same respondent, especially when the said decision was based on interim order passed by the larger Bench of the Tribunal in case of Ricela Health Foods Limited passed by placing wrong reliance in case of CCE v Indian Aluminum Company 2006 (203) E.L.T.3 (S.C.)?

iii) Whether the impugned order dated 06.09.2018, Annexure A-7 is based on wrong interpretation of the judgments passed by the Hon'ble Supreme Court on the same issue?

iv) Whether the impugned order dated 6.9.2018, Annexure A-7 is perverse, illegal and untenable in the eyes of law.

Notice of motion is yet to be issued.

Today **CM 23421-CII/2019** has been filed praying for withdrawal of the appeal in view of instructions dated 22.08.2019 (A-1). It is stated therein that during the pendency of the appeal, 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 has issued instructions dated 22.08.2019,whereby the monetary limit for filing appeal before the Hon'ble High Courts has been revised to Rs.1 Crore. It has been further instructed vide instructions dated 22.08.2019 that these instructions will apply to the pending cases as well. It is further stated that on examination, it has been found that the revenue involved in this case is less than Rs.1 Crore i.e. Rs.83,39,354 and therefore the same is liable to be withdrawn in view of instructions dated 22.08.2019. The application is supported by an affidavit of Ashutosh Baranwal, Principal Commissioner of Central Goods & Service Tax Commissionerate, Ludhiana.

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**