

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

CEA-67-2019 (O&M)

Date of Decision : 20.1.2020

**The Commissioner, Central Goods & Services Tax Commissioner
..... Appellant**

Versus

M/s Cannon Industries Pvt.Ltd. Respondent

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr. Anshuman Chopra, Standing counsel
for the applicant-appellant.

**AJAY TEWARI, J. (Oral)
CM-13608-CII-2019**

This is an application for condonation of delay of 85 days in re-filing the appeal.

For the reasons recorded in the application, the same is allowed and delay of 85 days in re-filing the appeal is condoned.

CEA-67-2019

This appeal has been filed by the revenue under Section 35-G of Central Excise Act, 1944 against the order dated 05/03/2018 passed by Custom, Excise and Service Tax Appellate Tribunal Chandigarh in Appeal No. E/1732/2009 vide which the appeal filed by the appellant was dismissed and order in original dated 19.2.2009 whereby adjudicating authority has exonerated the respondent from penalty was upheld. The

appellant has raised the following substantial questions of law :-

“(i). Whether observations and findings contained in the impugned order are perverse and contrary to law and to record and thus are legally not sustainable and are liable to be set aside ?

“(ii). Whether the tribunal has acted illegally and with material irregularity while dropping the penalty against the respondent?”

We find that the facts of the case are covered by the decision of the Supreme Court passed in ***Union of India vs. Rajasthan Spinning and Weaving Mills*** reported as ***2009 (238) ELT 3(SC)***.

Learned Senior Standing counsel for the appellant is not in a position to cite any contrary judgment.

Consequently, the present appeal stands dismissed.

Since the main case has been decided, the pending application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

20.1.2020
anuradha

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No