IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9565 of 2011

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Dina Mahabir Re-Rollers Private Ltd., a Company incorporated under the Companies Act, 1956 having its factory and registered office at Agamkuan, P.O-Gulzarbagh, P.S.- Agamkuan, Patna-800008 through its Director Rajesh Kumar Kamalia, S/o Sri Rajendra Prasad Kamalia, R/o -4th Floor, Sita Bhawan, South Gandhi Maidan, P.O-GPO, P.S.-Gandhi Maidan, Distt.- Patna-800001.

... ... Petitioner/s

Versus

1. The Union of India through the Ministry of Finance, North Block, New Delhi.
2. The Member (CX), Central Board of Excise & Customs, Deptt. Of Revenue, Ministry of Finance, New Delhi.
3. The Director General of Central Excise Intelligence, West Block VIII, R.K.Puram, New Delhi.
4. The Director General of Central Excise Intelligence Jamshedpur Regional Unit, First Floor, New Kalimatti Road, Sakchi, Jamshedpur.
5. The Addl. Director General, DGCEI, Kolkata Zonal Unit, Kolkata.
6. The Joint Director of Central Excise Intelligence Jamshedpur Regional Unit, First Floor, New Kalimatti Road, Sakchi, Jamshedpur.
7. The Commissioner, Central Excise, Revenue Building, Birchan Patel Path, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate

For the Union of India : Dr. K.N.Singh, A.S.G.
Mr. Anshuman Singh, Sr. SC CGST
Mr. Sriram Krishna, JC to A.S.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 02-12-2021 Petitioner has prayed for the following relief(s):-

"(i) For quashing of the order no. 12/2011-M(CX)/DA dated 6.6.2011 passed by the respondent Member, Central Board of Excise and Customs which has been wholly illegal, arbitrary and violative of principles of natural justice.

(ii) For a declaration that opportunity of hearing means an effective opportunity of hearing whereby and whereunder the adverse materials relied upon by the Respondent No. 2 for passing such illegal and arbitrary order has to be provided to the petitioner before passing any order based on such adverse material.

(iii) For a declaration that the order passed by the respondent Member without providing the adverse material to be used against the petitioner, despite repeated requests by the petitioner is violative of principles of natural justice.

(iv) For a declaration that the respondent authorities to stay the operation of the order dated 6.6.2011 by which the petitioner has been directed to pay excise duty without utilizing CENVAT credit from 15.6.2011 to 15.10.2011 and also to pay Central Excise Duty on each consignment basis at the time of removal of the goods, forfeiting the facility of monthly payment of Central Excise Duty.

(v) For a declaration that the proceeding is not maintainable as the same is time barred as the recommendation, if any, has been made by the respondent in terms of notification no. 32/2006-CE(NT), it should have been made within 30 days of the detection of any alleged case against the petitioner.

(vi) For a declaration that the respondent authorities have got no jurisdiction over the petitioner's factory/office premises and for any other relief or reliefs for which the petitioner may be found entitled in the facts and circumstances of the case."

It is brought to our notice that the issue, subject matter of the present petition, is pending consideration before Hon'ble the Apex Court in C.A. No. 000518/2012 [SLP(C) No. 001760/2012], titled as **Union of India vs. Aryan Ispat and Power Pvt. Ltd**. and analogous cases.

After the matter was heard for some time, learned counsel for the parties are in agreement that the petition can be disposed of in the following terms:-

(a) Parties shall be bound by the decisions rendered by Hon'ble the Apex Court in ***Aryan Ispat and Power Pvt. Ltd*** (supra).

(b) Liberty reserved to the parties to take recourse to such other remedies, as are otherwise available in accordance with law, should the need so arise subsequently.

(c) This they can do under the same and subsequent cause of action.

Petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/-

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