

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CENTRAL EXCISE)
ORIGINAL SIDE

IA NO:GA/2/2021
In
CEXA/11/2012
M/S. SHALIMAR PAINTS LTD.
VS.
COMMISSIONER OF CENTRAL EXCISE, KOLKATA-II
COMMISSIONERATE

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
A N D
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date: December 3, 2021.
(Via Video Conference)

Appearance :
Mr. Indranil Banerjee, Adv.
... for the appellant

The Court : This appeal has been filed under Section 35G of the Central Excise Act, 1944 (the Act) challenging the order dated 12th January, 2012 passed by the Customs, Excise and Service Tax Appellate Tribunal, East Zonal Bench, Kolkata in Excise Appeal No. EX-415/2006. This appeal was admitted on 8th August, 2012 to consider the following substantial questions of law :-

- (i) Whether the Tribunal was justified in law in upholding the invocation of the longer period of limitation of five years in terms of the first proviso to section 11A (1) of the Central Excise Act, 1944 in respect of the show cause notice dated January 28, 2003 (served on

February 2, 2003) relating to the period 1997-98 to 2001-02 and its purported findings in that behalf are arbitrary, unreasonable and perverse?

- (ii) Whether the Tribunal was justified in law in upholding the imposition of penalty under section 11AC and charging of interest under section 11AB of the Central Excise Act, 1944 and its purported findings in that behalf are arbitrary, unreasonable and perverse?

Mr. Indranil Banerjee, learned counsel appearing for the appellant/assessee submitted that the assessee has settled the dispute by availing the benefit *Sabka Vishwas Scheme* and the case has been settled and therefore, seeks permission to withdraw this appeal. The submission made by the learned counsel is placed on record and the appeal is dismissed as withdrawn. Consequently, the substantial questions of law are left open.

Interlocutory application also stands dismissed.

Affidavit of service is taken on record.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)