OD - 43

IA No.GA/1/2016
(Old No.GA/2723/2016)
CEXA/21/2016
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CENTRAL EXCISE)
ORIGINAL SIDE

COMMISSIONER OF CENTRAL EXCISE, BOLPUR COMMISSIONERATE
VERSUS
M/S. V.S.P. UDYOG PVT. LTD. & ANR.

BEFORE:
The Hon'ble JUSTICE T.S.SIVAGNANAM
AND
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date: 3rd February, 2022

Appearance :
Mr. Uday Sankar Bhattacharya,
Mr. Abhradip Maity Advs.,
for the appellant.

The Court: This appeal filed by the revenue under Section 35B of the Central Excise Act, 1944 is directed against the order passed by the Customs, Excise and Service Tax Appellate Tribunal, Eastern Zonal Bench, Kolkata challenging the order dated 5th February, 2016.

The revenue has raised the following questions of law :

(a) Whether the Learned Tribunal was right in not imposing penalty under Section 11AC of the Central Excise Act, 1944 while confirming duty where the shortage of finished goods and inputs was found with intention to evade duty and where suppression of facts is clearly evident and committed by the Respondent No.1.

(b) Whether the Respondent No.1 is liable for payment of penalty under Section 11AC of the Central Excise Act, 1944 when it is admitted that the excisable goods were removed by the Respondent No.1 without payment of duty with clear intention to evade duty and when the suppression of facts and mis-statement is abundantly present.

We have heard Mr. Uday Sankar Bhattacharya, learned standing counsel, assisted by Mr. Abhradip Maity, learned counsel appearing for the appellant. From the communication sent by the office of the Central Tax, Bolpur GST Commissionerate dated 20th January, 2022, we find that the appellant seeks to withdraw the appeal on the ground that the tax effect is only Rs.27.64 lakhs which is below the threshold limit fixed by the notification of CBIC dated 22nd August, 2019.

Thus, recording the statement given by the Department, this appeal is disposed of on the ground of low tax effect and the questions of law are left open.

With the disposal of this appeal, the stay application (IA No.GA/1/2016) stands closed.

(T.S.SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA,J.)

S.Das/