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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 18.08.2022*

+ **SERTA 2/2022 and CM APPLs.9722-23/2022**

PR. COMMISSIONER OF CENTRAL TAXAppellant
Through: Mr Harpreet Singh, Sr. Standing
Counsel with Mr Akshay Saxena and
Mr Arunesh Sharma, Advocates.

versus

M/S ANGLO AMERICAN SERVICE (INDIA) PVT. LTD.
.....Respondent
Through: Ms Charanya Lakshmi Kumaran with
Mr Karan Sachdev, Mr Kunal Kapoor
and Ms Avisha Khatri, Advocates.

+ **SERTA 5/2022, CM APPLs.15988/2022 and 15990/2022**

PR. COMMISSIONER OF CENTRAL TAX CGST DELHI-SOUTH
..... Appellant
Through: Mr Harpreet Singh, Sr. Standing
Counsel with Mr Akshay Saxena and
Mr Arunesh Sharma, Advocates.

versus

M/S ANGLO AMERICAN SERVICES INDIA PVT. LTD.
.....Respondent
Through: Ms Charanya Lakshmikumaran with
Mr Karan Sachdev, Mr Kunal Kapoor
and Ms Avisha Khatri, Advocates.

+ **SERTA 6/2022, CM APPLs.15991/2022 and 15993/2022**

PR. COMMISSIONER OF CENTRAL TAX CGST DELHI-SOUTH
.....Appellant
Through: Mr Harpreet Singh, Sr. Standing
Counsel with Mr Akshay Saxena and
Mr Arunesh Sharma, Advocates.

versus

M/S ANGLO AMERICAN SERVICES INDIA PVT. LTD.
.....Respondent



Through: Ms Charanya Lakshmi Kumaran with
Mr Karan Sachdev, Mr Kunal Kapoor
and Ms Avisha Khatri, Advocates.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MS JUSTICE TARA VITASTA GANJU
[Physical Court hearing/ Hybrid hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. The above-captioned appeals are directed against a common order dated 01.08.2018, rendered by the Customs, Excise and Service Tax Appellate Tribunal [in short, "Tribunal"] in three separate appeals i.e., ST/300/2012, ST/301/2012 and ST/52174/2015.

2. Ms Charanya Lakshmikumaran, who appears on behalf of the respondent/assessee, has raised three preliminary issues:

- (i) First, the appeals, if any, under the exclusionary part of Section 35G of the Central Excise Act, 1944 will lie with the Supreme Court;
- (ii) Second, the quantum of tax involved is below the threshold limit prescribed in the circular dated 22.08.2019, and
- (iii) Third, the above-captioned appeals are woefully delayed.

3. According to Ms Lakshmikumaran, the appeals are way beyond the prescribed period of limitation.

4. Mr Harpreet Singh, who appears on behalf of the appellant/revenue, seeks to explain the delay by relying upon the orders passed by the Supreme Court from time to time in *In Re: Cognizance for Extension of Limitation* [SMW(C) No. 3/2020].

4.1 It is Mr Singh's contention, that from 15.03.2020 till 02.10.2021, the period of delay can be explained by taking recourse to the orders passed by



the Supreme Court in the aforementioned writ petition.

5. Having regard to the fact, that the substantial period of the delay falls within the timeframe that Covid restrictions had kicked in i.e., since March 2020, we are inclined to condone the delay.

6. As regards the other preliminary objection taken by Ms Lakshmikumaran as to the revenue impact being below the prescribed threshold limit, Mr Singh says that it cannot but be accepted, that the circulars are binding on appellant/revenue.

7. Given this position, in our view, we need not delve upon the first objection raised by Ms Lakshmikumaran i.e., that the appeals, if at all, ought to have been filed before the Supreme Court. Since the instructions/circulars dated 17.08.2011, 26.12.2014 and 22.08.2019 are binding on the appellant/revenue and the revenue involved in each of the appeals is, admittedly, below the prescribed threshold, these appeals will have to be dismissed.

7.1 It is ordered accordingly.

8. Since refund sought for by the respondent/assessee has been hanging fire for a very long time, the appellant/revenue, we are sure, will expedite the remittance of the monies claimed by the respondent/assessee as refund, along with statutory interest.

9. Consequently, pending applications shall stand closed.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

AUGUST 18, 2022 / tr