IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 23.03.2023

1. **CEA No.43 of 2019 (O&M)**

Principal Commissioner of Central Goods and Service Tax
…Appellant

Vs.

Paliwal Overseas Pvt. Ltd.

…Respondent

1. **CEA No.46 of 2019 (O&M)**

Principal Commissioner of Central Goods and Service Tax
…Appellant

Vs.

Avinash Paliwal, Director, Overseas Pvt. Ltd.

…Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. Tajender K. Joshi,
for the appellant(s).

Mr. Naveen Bindal, Advocate,
Mr. Sagar Verma, Advocate,
and Ms. Diksha Verma, Advocate,
for the respondent(s).

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Ritu Bahri, J. (oral)

This order shall dispose of CEA No.43 of 2019 and CEA No.46 of 2019 together as common question of law and facts are involved in both the appeals. For reference, facts are being taken from CEA No.43 of 2019.

The instant appeal (CEA No.43 of 2019) under Section 35G of the Central Excise Act, 1944, has been filed against the order dated 31.05.2017 (Annexure A-2) passed by the Customs, Excise & Service Tax

Appellate Tribunal, Chandigarh whereby Appeal No.E/848 of 2008 filed by the respondent has been allowed on the ground of limitation.

In the present case, show cause notice with respect to the period from 01.03.2003 to 31.07.2003, was issued on 10.01.2007 by invoking proviso of sub-section 1 to Section 11A of the Central Excise Act, 1944. As per this notice, the respondent had got 1664532 Kgs. of yarn dyed through job workers and therefore, Central Excise duty amounting to Rs.1,59,75,117/- was payable by the respondent.

The show cause notice was set aside on the ground that the information about dying of grey yarn was available with the revenue department as on 11.02.2005 and the said notice was issued on 10.01.2007, therefore, it was hit by limitation.

In this backdrop, the appeal of the assessee-respondent was allowed. However, no finding has been given with respect to the merits of the case.

In view of the above fact, the impugned order(s) dated 31.05.2017 (Annexure A-2) are being set aside and the matter is remanded to the Customs, Excise and Service Tax Appellate Tribunal, Chandigarh to reconsider the issue and pass a fresh order on merits as well as limitation by affording due opportunity to both the parties.

Both the appeals i.e. CEA No. 43 of 2019 and CEA No.46 of 2019 stand disposed of accordingly.

(RITU BAHRI)
JUDGE

(AMARJOT BHATTI)
JUDGE

23.03.2023
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No