od-2

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

CEXA/4/2020
IA NO: GA/1/2020(Old No:GA/799/2020),
GA/2/2020(Old No: GA/800/2020)
COMMISSIONER OF CENTRAL EXCISE, BOLPUR
VS
M/S. HINDUSTAN CABLES LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE BIVAS PATTANAYAK
DATE : September 27, 2024.

Appearance :
Mr. Uday Shankar Bhattacharya, Adv.
Mr. Tapan Bhanja, Adv.
...for appellant.

Mr. Rohit Das, Adv.
Ms. Kishwar Rahman, Adv.
Ms. Divya Tekriwal, Adv.
...for respondent.

The Court :- We have heard learned Counsel on either sides.

There is a delay of 252 days in filing the appeal. As we are satisfied with the reasons given the delay in filing of this appeal is condoned and the application is allowed.

This appeal filed by the revenue under Section 35G 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 dated 27th June, 2018 in Appeal No. EX/191/2009. The revenue has raised the following substantial questions of law for consideration.:

i) Whether the Learned Tribunal is erred in law by not going in to the merits of case and reliance of the decision in the case of Finolex Cables Limited –Vs- C.C.Ex, Pune reported in 1996 (86) ELT (418) (Tri.) is applicable in the present case ?

ii) Whether the respondent is required to maintain the provision of Rules 57F(2), 57F(3) and 57F(4) read with Rule 57A of the Central Excise Rule, 1944 for discharging their duty liabilities and in absence of the same recovery under Section 11A(1) of the Central Excise Act, 1944 is applicable ?

iii) Whether permission under Rule 57F(2) of the Excise Rules for reprocessing of inputs was required to be obtained by the respondent from the appellant authorities before removal of various types of scraped cables and lead scrapes for reprocessing to the factory of job workers ?

The learned Tribunal had allowed the assessee's appeal following the assessee's own case in an earlier matter on identical facts which was decided by the learned Tribunal by order dated 4th October, 2000. The revenue has not been able to point out that the said decision has either been reversed or modified. In such an event, the issue stands covered by the earlier decision in the assessee's own case. Apart from that the identical issue was decided by this Court in the assessee's case in CEXA/29/2001 dated 15th June, 2024.

Thus, following the said decision the appeal stands dismissed.

Substantial questions of law are answered against the appellant/revenue.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(BIVAS PATTANAYAK, J.)

pkd/GH