211 IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

CEA-49-2018
Decided on: 10.11.2025

Commissioner of Central Excise and Service Tax .... Appellant

versus

R.K.Machine Tools Ltd. .... Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Sourabh Goel, Sr. Standing Counsel with
Ms. Geetika Sharma, Advocate
for the appellant.

Mr. Mukul Singla, Advocate
for the respondent.

Lisa Gill, J. (Oral)

1. Prayer in this appeal filed by the Department is for setting aside order dated 30.11.2017 (Annexure A-4) passed by learned Customs, Excise and Service Tax Appellate Tribunal, Chandigarh whereby appeal filed by the respondent has been allowed.

2. Order-in-original dated 08.08.2013 whereby duty had been demanded from the respondent herein by invoking provisions of Rule 8(3A) of Central Excise Rules, 2002 was challenged by the respondent. Reliance was placed upon decision of the High Court of Gujarat in the case of ***Indsur Global Ltd. vs. Union of India, 2014 (310) ELT 833(Gujarat)*** wherein Rule 8(3A) of Central Excise Rules, 2002 has been held to be ultra vires.

3. Considering the same, appeal was allowed by taking note of submissions of representatives of the Department that decision dated 27.11.2014 of Gujarat High Court was under challenge before Hon'ble the Supreme Court in Civil Appeal No.6652 of 2018.

4. It is brought to our notice that Civil Appeal No.6652 of 2018 along with other connected appeals has been disposed of as not pressed in view of the low tax effect involved in the said appeals.

5. In the present appeal as well, the amount of duty involved is Rs.61,22,878/- and admittedly in terms of Circular dated 06.08.2024, matters to be pursued by the Department are those having tax effect of Rs.2 crores and above.

6. In view of the above, learned counsel for respondent submits that present appeal cannot be pursued by the Department whereas learned counsel for appellant submits that as the vires are in question, he does not have instructions to withdraw the appeal.

7. Learned counsel for appellant is, however, unable to point out any distinction in the present matter which calls for a decision on merits thereon in view of Circular dated 06.08.2024. It is to be noted that in identical circumstances Civil Appeal No.6652 of 2018, referred to in foregoing paras was dismissed as not pressed. We also take note of the fact that present is an appeal challenging an order passed by the Tribunal and not a writ petition under Article 226 of Constitution of India. We, thus, do not find any justification for continuation of present proceedings in view of low tax effect. However, question of law as involved is kept open for decision in appropriate proceedings.

8. Appeal is, accordingly, disposed of. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

10.11.2025 **(MEENAKSHI I. MEHTA)**
sonia/lucky **JUDGE**

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No