203-h IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CEA No. 80 of 2019 (O&M)
Date of Decision: January 30, 2026

The Principal Commissioner, Goods and Services Tax Commissionerate, Ludhiana ..... Appellant

Versus

M/s B.B.F. Home Care Products Ltd. ..... Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present: Ms. Sidhi Bansal, Advocate and
Mr. Viney Kumar, Advocate for the appellant.

None for the respondent.

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<u>LISA GILL, J.</u>

1. Prayer in this appeal filed by the Department is for setting aside order dated 02.11.2018 (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 16.03.2011 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 **Sandley Industries vs. Union of India 2015 (326) ELT 256 (P&H)** wherein Rule 8(3A) of Central Excise Rules, 2002 has been held to be ultra vires.

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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 in question/tax effect is admittedly lower than Rs.2 crores as is specified in Circular dated 06.08.2024. It is stated in the said circular that the Department shall not file or pursue appeals before High Courts, where tax effect involved is below Rs.2 crore.

6. Though learned counsel for appellant submits that as vires are in question, she does not have instructions to withdraw the appeal, she 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

(RAMESH CHANDER DIMRI)
JUDGE

January 30, 2026
Rts

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