(2013) 12 P&H CK 0142

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 26929 of 2013

Barnala Builders and Property Consultants — APPELLANT

Vs

Deputy Commissioner of Central Excise and Service Tax — RESPONDENT

Date of Decision : 09-12-2013

Acts Referred:

Citation : (2013) 42 GST 550 : (2014) 35 STR 65

Hon'ble Judges : Rajive Bhalla, J;Bharat Bhushan Parsoon, J

Bench : Division Bench

Advocate : R. Santhanam and Ajay Jain, for the Appellant;

Judgement

Rajive Bhalla, J.—The impugned order, in our considered opinion, is appealable, u/s 86 of the Indian Finance Act, 1994, particularly as the scheme under which the petitioner has applied, is part and parcel of the aforesaid Finance Act, by virtue of the Indian Finance Act, 2013. Faced with this situation, counsel for the petitioner has pressed into service circular, dated 08.08.2013, issued by the Central Board of Excise and Customs, stating that such an order is not appealable.

2. We are unable to accept correctness of instructions issued by the Central Board of Excise and Customs, for the simple reason that after incorporation of the Service Tax Voluntary Compliance Encouragement Scheme into the Finance Act, all other provisions of the Act except to the extent specifically excluded, apply to proceedings under the scheme. The impugned order passed by the Deputy Commissioner of Central Excise and Service Tax would necessarily be appealable u/s 86 of the Indian Finance Act, 1994. Faced with this situation, counsel for the petitioner prays that the writ petition may be dismissed as withdrawn with liberty to file an appeal. It is further prayed that the appeal may be directed to be decided within fortnight. In view of the statement made by counsel for the petitioner, the writ petition is dismissed as withdrawn with liberty to file an appeal. In case, such an appeal is filed, it shall be considered and decided within a fortnight. The petitioner shall be free to raise all available pleas,

in accordance with law.

