(2013) 01 JH CK 0173

In the Jharkhand High Court

Case No : Taxation Case No. 5 of 1996 (R)

C.C.E. APPELLANT

Vs

Kumardhubi Metal Casting and Engg. Ltd. RESPONDENT

Date of Decision : 03-01-2013

Acts Referred:

Citation : (2013) 295 ELT 28 : (2014) 45 GST 526

Hon'ble Judges : Prakash Tatia, C.J;P.P. Bhatt, J

Bench : Division Bench

Advocate : Ratnesh Kumar and Amit Kumar, for the Appellant;

Judgement

1. The only reason for filing this Tax Case is that the appellate Tribunal, after relying upon the judgment of the Larger Bench of the Tribunal in the case of 1994 (71) ELT 776] which is based on Calcutta High Court''s judgment in the case of Singh Alloys and Steel Ltd. Vs. Assistant Collector of Central Excise, , has decided the issue in favour of the assessee but Single Bench judgment of the Calcutta High Court was under challenge before the Divisions Bench, and, therefore, according to Revenue, the issue was subject matter before the Division Bench of the Calcutta High Court and had not attained finality. Today learned counsel for the Revenue, after several efforts and after seeking instruction from the Department, could not bring to our notice that the judgment of the Calcutta High Court delivered in the case of Singh Alloys & Steel Ltd. v. Assistant Collector of Central Excise has been reversed or the order of the Larger Bench of the Tribunal in the case of 1994 (71) ELT 776 has been reversed.

2. In view of the above facts and legal position settled by the Larger Bench of the Tribunal after relying upon the judgment of the High Court, if decision has been taken, no fault can be found out in the judgment rendered by the Tribunal and, therefore, this Tax Case is decided accordingly and it is held that if the Tribunal decides the issue following Larger Bench decision based upon the High Court decision, then the Tribunal has not only done it rightly but was bound to do accordingly. The Tax Case is dismissed accordingly.