(2016) 08 P&H CK 0273

In the Punjab And Haryana At Chandigarh

Case No : CEA No. 109 of 2014 (O&M)

Commissioner of C. Ex. — APPELLANT

Vs

Dee Development Engineers Pvt. Ltd. — RESPONDENT

Date of Decision : 09-08-2016

Acts Referred:

Citation : (2016) 339 ELT 560

Hon'ble Judges : Rajesh Bindal and Harinder Singh Sidhu, JJ.

Bench : Division Bench

Advocate : Shri Anshuman Chopra, Advocate, for the Appellant; Shri Jagmohan Bansal, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.—The revenue is in appeal against the order dated 26-2-2013 passed by the Customs, Excise and Service Tax Appellate Tribunal, Principal Bench, New Delhi, against the order passed in appeal No. 25/CE/Appl/DLH-IV/2011, dated 31-3-2011, raising the following substantial questions of law :

1. Whether the Hon''ble CESTAT was right in holding the supplies made from DTA unit to SEZ developer/promoter as ''exports'' entitled for the exceptions provided under Rule 6(6) of the Cenvat Credit Rules, 2004?

2. Whether the Tribunal was right in applying the overriding effect of Section 51 of the SEZ Act, 2005 to hold the impugned goods as "exports" and at the same time ignoring the provisions of clause (c) of sub-section (1) of Section 26 of SEZ Act, according to which the supplies by domestic units to the units in SEZs/Developers of SEZ are exempted from payment of Central Excise Duties?

3. Whether the Hon''ble CESTAT was correct in holding that the amendment to Rule 6(6)(i) of Cenvat Credit Rules, 2004 vide Notification No. 50/2008-C.E. (N.T.), dated 31-12-2008 shall be applicable with retrospective effect, when the Ministry/Board vide its Circular No. 267/52/2008-CX, dated 7-1-2009 has

clarified that the amendment is prospective in nature and would apply to supplies cleared from the date of the notification only?

2. At the very outset, it was not disputed by learned counsel for the parties that identical issue was gone into by three different High Courts in "Commissioner of Central Excise & Customs, Raipur v. M/s. Steel Authority of India Ltd., Bhilai Steel Plant, Bhilai, 2013-TIOL-384-HC-Chhattisgarh-CX = 2013 (297) E.L.T. 166 by Chhattisgarh High Court, which was followed by Andhra Pradesh High Court in CEA No. 40 of 2012, the Commissioner of Customs & Central Excise, Hyderabad v. M/s. Sujana Metal Products Ltd., decided on 2-7-2013 and further followed by Karnataka High Court in Commr. of C. Ex. & S.T., Bangalore v. Fosroc Chemicals (India) Pvt. Ltd. - 2015 (318) E.L.T. 240 (Kar.), and the issue was decided against the revenue and in favour of the assessees.

3. As the issue raised in the present appeal has already been gone into by three different High Courts and the opinion expressed is against the revenue, for the reasons assigned in those judgments, we deem it appropriate to follow the same to maintain consistency as the Central Excise Act is a Central Statute. Accordingly no substantial question of law arises.

4. The appeal is accordingly dismissed.