(2011) 06 KAR CK 0078

In the Karnataka High Court

Case No : C.E.A. No. 37 of 2007

Commissioner of C. Ex., Bangalore-I — APPELLANT

Vs

Aravind Clothing Ltd. — RESPONDENT

Date of Decision : 03-06-2011

Acts Referred:
Central Excise Act, 1944 — Section 11 AB

Citation : (2012) 281 ELT 215

Hon'ble Judges : V.G. Sabhahit, J;Ravi Malimath, J

Bench : Division Bench

Advocate : N.R. Bhaskar, for the Appellant; K.S. Ravi Shankar, for the Respondent

Final Decision : Dismissed

Judgement

V.G. Sabhahit, J.—This appeal is filed by the Commissioner of Central Excise being aggrieved by the order passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Bangalore in Appeal No. E/403/2006, wherein the Tribunal held that duty had been paid before issue of show cause notice and therefore, in view of the cited judgments, the interest u/s 11AB of the Central Excise Act, 1944 is not leviable and the Tribunal has referred to the judgments of the Supreme Court. We have heard the learned Counsel appearing for the appellant and the learned Counsel appearing for the respondents.

2. Learned Counsel appearing for the appellant submits that mere fact that the respondent had deposited the duty before issue of show cause notice did not relieve him from liability of paying interest and wherefore, the order passed by the Tribunal is erroneous.

3. Learned Counsel appearing for the respondent submitted that it is now well settled that where the subject matter of the appeal is less than Rs. 2 lakhs, policy decision has been taken that no appeal shall be filed in cases where the duty involved or total revenue including fine or penalty is Rs. 2 lakhs and. below

and contends that instructions have been issued in this regard and copy of the said instructions has been produced before this Court.

4. We have given our careful consideration to the contentions urged by the learned Counsel appearing for the appellant and respondent and scrutinized the material on record.

5. As it is clear from the said Instruction F. No. 390/Misc./163/2010 -JC dated 20-10-2010, that in view of the various decisions of the Court, instructions have been issued not to file an appeal before the High Courts if the duty involved or total revenue including the fine or penalty is Rs. 2 lakhs or below.

6. Learned counsel appearing for the appellant, in reply, submitted that instructions were issued subsequent to filing of this appeal and the appeal was filed on 14-3-2007.

7. The material on record would clearly show the fact that the respondent had deposited duty before the issuance of show cause notice and the same is not in dispute. It is well settled that in view of the decision of the various High Courts and also which has been confirmed in the case of CCE v. Techno Economic Services Pvt. Ltd. reported in 2010 (255) E.L.T. 526 (Bombay) to reduce the litigations arising out of indirect tax litigations, circulars have been issued from time to time. Wherefore, the National Litigation Policy was also published on 20-10-2010 giving instructions not to file an appeal to the High Court where the subject matter of the appeal is Rs. 2 lakhs and below. Hence, the contention of the learned Counsel appearing for the appellant would not in any way enable the appellant to contend that even if the value of the subject matter of the appeal is less than Rs. 2 lakhs, appeal is maintainable. Admittedly, value of the subject matter of this appeal is Rs. 35,000/-. Accordingly, we hold that there is no merit in this appeal and it is devoid of merits. Accordingly, we pass the followings :

ORDER

The appeal is dismissed.

