(2014) 06 BOM CK 0219

In the Bombay High Court

Case No : Central Excise Appeal Nos. 3-7 of 2014

Commissioner of Cus., C. Ex. and Service Tax APPELLANT

Vs

Jolly Board Ltd. RESPONDENT

Date of Decision : 20-06-2014

Acts Referred:

Citation : (2015) 323 ELT 80

Hon'ble Judges : R.M. Borde, J;V.L. Achliya, J

Bench : Division Bench

Advocate : K.B. Bharaswadkar, Advocate for the Appellant; Sushanth Murthy and Amit Yadkikar, Advocate for the Respondent;

Judgement

1. There are two objections raised by respondent in respect of admission of appeals and grant of interim relief. Firstly, it is contended, relying upon the circular issued by the Ministry of Finance, Department of Revenue, Central Board of Excise and Customs, New Delhi, dated 17-8-2011, that the appeals involving monetary value of more than Rs. 10,00,000/- need not be entertained. Learned counsel for appellant informs that since it is a recurring case and the issue involved is in respect of refund, the circular may not have applicability. The other contention raised by appellant is that the total amount of refund accruable to respondent is more than Rs. 33,00,000/- and as such appeals need to be entertained. It would be appropriate for the revenue to take instructions from the Ministry of Finance in this regard and seek clarification. It has been pointed out that similar issue is pending consideration before the Supreme Court in the matter of Commissioner of Central Excise, Chandigarh v. M/s. Drish Shoes Ltd. and, until the Supreme Court considers the matter this Court may not permit refund. Learned counsel for respondent informs that even in case of M/s. Drish Shoes since no stay was granted the department was constrained to sanction refund.

2. At this stage, since the matter involving identical issue is under consideration of the Supreme Court, the appeals need not be admitted and its consideration be

deferred. The request of respondents for issuance of directions to comply with order in respect of refund of amount issued by authorities be considered while dealing with admission of appeal, which can be taken up after the decision of Supreme Court in pending Special Leave Petition. Interim relief granted earlier to continue.

