(2023) 04 OHC CK 0243

In the Orissa High Court

Case No : OTAPL No.12 Of 2017

M/s. Dilip Kumar Nayak — APPELLANT

Vs

Commissioner Of Customs, Excise & Service Tax, Bhubaneswar — RESPONDENT

Date of Decision : 24-04-2023

Acts Referred:

Central Excise Act, 1944 — Section 35G
Finance Act, 1994 — Section 73(4)

Citation : (2023) 04 OHC CK 0243

Hon'ble Judges : S. Talapatra J;Savitri Ratho, J

Bench : Single Bench

Advocate : Amar Kumar Mohanty, T.K. Satapathy,

Judgement

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. Amar Kumar Mohanty, learned counsel appearing for the appellant.

3. This is an appeal under Section 35G of the Central Excise Act, 1944 against the order dated 23.03.2007 delivered by the Customs, Excise & Service Tax Appellate Tribunal (in short CESTAT), Kolkata affirming the order of the Commissioner dated 31. 12.2020, Annexure- 3 to the appeal memo.

4. The appeal is admitted for hearing on the following substantial question of law:

Whether the decision of the Commissioner of Income Tax as well as the order of affirmation by the CESTAT is sustainable, as it is held that Section-73(4), Chapter-V of the Finance Act, 1994 is applicable to the case of the appellant ?

5. Issue notice.

6. Notice is made returnable on 03.07.2023.

7. Since Mr. T.K. Satapathy, learned Senior Standing Counsel, GST, Central Tax and Customs appears and waives notice for the respondent, no formal notice is

called for.

8. One extra copy of the appeal memo shall be served on Mr. Satapathy, learned Senior Standing Counsel by tomorrow.

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