(2016) 02 KAR CK 0113

In the Karnataka High Court

Case No : Central Excise Appeal No. 39 of 2015

Principal C.C.E., Bangalore-I APPELLANT

Vs

Power Control Equipments (Unit-II) RESPONDENT

Date of Decision : 25-02-2016

Acts Referred:

Citation : (2016) 336 ELT 284

Hon'ble Judges : Jayant Patel and S. Sujatha, JJ.

Bench : Division Bench

Advocate : Jeevan J. Neeralgi, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Jayant Patel, J.—The present appeal is directed against the order dated 27-3-2015 passed by the Customs, Excise & Service Tax Appellate Tribunal in Appeal No. E/1953/2011-SM, whereby the Tribunal has set aside the order based on its earlier decision in case of Sujana Metal Products Ltd. v. CCE, Hyderabad reported in 2011 (273) E.L.T. 112 (Tri.-Bang.).

2. We have heard Mr. Jeevan J. Neeralgi, learned counsel appearing for the appellant-Revenue.

3. The learned counsel for the appellant-Revenue fairly conceded that the issues involved in the present appeal are covered by the earlier decision of this Court in Central Excise Appeal No. 54/2015, decided on 24-2-2016 and it was submitted that the present appeal may also be disposed of on the same lines.

4. We may record that in CEA No. 54/2015, this Court observed thus :

"The present appeal is directed against the Order dated 1-6-2015 passed by the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Bangalore (hereinafter referred to as ?Tribunal?, for short) in Final Order No. 21234/2015, whereby the Tribunal has set aside the Order and has allowed the appeal.

2. We have heard Mr. Jeevan J. Neeralgi, learned counsel for the appellant-Revenue.

3. The contention raised on behalf of the appellant was that the decision of the Tribunal in the case of ?Sujana Metal Products Limited v. CCE, Hyderabad? reported in [2011 (273) E.L.T. 112 (Tri.-Bang.)] is carried before the Apex Court and the Apex Court is seized with the matter, this Court may entertain the appeal.

4. We are not at all impressed by the submission for the simple reason that the tenor of the order shows that practically there was consensus including on behalf of the appellant-Revenue that the issue is already covered by the earlier decision of the Tribunal in the case of Sujana Metal Products Limited?s (supra). If such was the position and based on the same, the Tribunal has passed the order, it cannot be said that there would be any substantial question of law. However, in the event the appellant succeeds in the proceedings before the Apex Court and a different view is taken, the question may be required to be considered by the Competent Authority and at that stage, rights and contentions of both the sides should remain open.

Hence, subject to the aforesaid observation, the appeal is not entertained and disposed of."

5. No further discussion is required, since the issue is covered by the above referred decision. Hence, the present appeal shall stand disposed of on the same line as per the observation made by this Court in the above referred order in CEA No. 54/2015.

6. Appeal disposed of accordingly.

