(2019) 09 P&H CK 0182

In the Punjab And Haryana At Chandigarh

Case No : Central Exceise Appeal No. 44, 45 Of 2016 (O&M)

Principal Commissioner Of Central Excise	APPELLANT
Vs	
Shivam Autotech Limited	RESPONDENT

Date of Decision : 27-09-2019

Acts Referred:

Citation : (2019) 09 P&H CK 0182

Hon'ble Judges : Rajesh Bindal, J;Amit Rawal, J

Bench : Division Bench

Advocate : Sharan Sethi

Final Decision : Dismissed

Judgement

Rajesh Bindal, J

The appellant in the present appeal has challenged the order dated 19.08.2015 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi, arising out of Appeal No.E/60679/2013, raising the following substantial questions of law:-

"(i) Whether the CESTAT was right in dropping the demand towards duty pertaining to the extended period of limitation?

ii) Whether the Hon'ble Tribunal was justified in dropping the demand towards duty pertaining to the extended period of limitation despite the finding of the adjudicating authority that the Sales Tax/VAT amounts collected by the assessee from their customers were retained by them and not paid to the Haryana Government?

iii)Whether the Hon'ble Tribunal was correct in dropping the demand towards duty pertaining to the extended period of limitation when it had itself relied upon the judgment of Hon'ble Apex Court in the case of "Maruti Suzuki India Ltd. Vs. CCE Delhi-2014(307) ELT625 (SC) and Super Synotex (India) Ltd. Vs. CCE Jaipur-2014 (301) ELT (273)" wherein it was held that amount of sales tax concession retained by the respondent is required to be added in the assessable value?

iv) Whether any amount of concession on sales tax retained by the respondent is required to be added in the assessable value as per CBEC Circular F.No.354/81/2000-TRU dated 30.06.2000 or not?

v) Whether the Hon'ble Tribunal was justified in setting aside the consequential penalty imposed upon the respondent when the Tribunal had itself held that the amount of sales tax concession retained by the respondent is required to be added in the assessable value and the respondents had intentionally not done so?

vi) Whether the Hon'ble Tribunal was justified in setting aside the consequential penalty imposed upon the respondent in respect of the period that was admittedly within limitation and the demand for which was confirmed by the Tribunal itself?

At the very outset, learned counsel for the appellant submitted that the amount involved in the present appeal is Rs. 2,94,198/- As the amount involved is less than the limit prescribed in the Circular issued by the Central Board of Indirect Taxes & Customs (Judicial Cell) dated 11.07.2018, the present appeal be dismissed as not maintainable.

Ordered accordingly.

However, it is made clear that dismissal of present appeal will not be taken as upholding the order passed by the Tribunal as the legal issue raised therein is left open to be considered in an appropriate case.

