(2013) 11 CAL CK 0060

In the Calcutta High Court

Case No : Cexa No. 23 of 2013

Steel Authority of India Ltd. APPELLANT

Vs

Commissioner of Central Excise RESPONDENT

Date of Decision : 12-11-2013

Acts Referred:

Citation : (2014) 307 ELT 435 : (2014) 44 GST 827

Hon'ble Judges : Subrata Talukdar, J;Girish Chandra Gupta, J

Bench : Division Bench

Judgement

1. This appeal is directed against a judgment and order dated 26th April, 2013 passed by the Customs, Excise and Service Tax Appellate Tribunal dismissing an application made by the appellant seeking rectification of the order passed by the Tribunal on 30th October, 2012 on the ground that in passing the order dated 30th October, 2012, the Tribunal did not notice the fact that an application filed on 11th February, 2011 was pending before the Committee of Disputes. The learned Tribunal advanced the following reasons:

..... the application that was filed earlier seeking clearance from the COD on 02.11.2006, was dismissed. The second application filed on 11th February, 2011, therefore, cannot be considered as an application pending before the Committee on Disputes as on 17.02.2011. In these circumstances, we do not find any merit in the Misc. application and accordingly, the same is dismissed.

The learned counsel appearing for the appellant has drawn our attention to a list of dates from which it appears that show cause notice dated 5th August, 2005 was issued to the appellant by the Commissioner of Central Excise as to why the differential central excise duty of Rs. 15.66 crores approximately should not be recovered and why penalty should not be imposed. The show cause notice was adjudicated on 31st March, 2006. No copy of such adjudication has, however, been disclosed. It appears that the appellant approached the Committee of Disputes seeking permission to pursue the matter higher-up. Such permission was, however, granted by order dated 26th December, 2006 by the Committee of

Disputes only with regard to the penalty and not with regard to the aforesaid demand of Rs. 15.66 crores. The order for penalty was, however, set aside by the Tribunal. Thereafter, the demand with regard to Rs. 15.66 crores was enforced against the appellant, which the appellant duly paid during the period between September, 2007 and March, 2008. The case of the appellant is that such payment was made under protest and thereafter, a fresh application was made before the Committee of Disputes seeking reconsideration of the issue. During the pendency of that application the judgment and order in the case of Electronics Corporation of India Ltd. Vs. Union of India (UOI) and Others, was passed by the Apex Court by which the Committee of Disputes was abolished.

2. The learned Tribunal has refused to rectify the order on the ground that the application filed seeking clearance from the Committee of Disputes was dismissed on 2nd November, 2006. Therefore, the right of the appellant to pursue the challenge with regard to the demand for Rs. 15.66 crores was not permitted by the Committee of Disputes. There was, as such, no question of any other view being taken.

3. We are of the opinion that the order passed by the learned Tribunal is perfectly justified and no interference is called for. The appeal is, therefore, dismissed.