

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CEA No.58/2019 (O&M)
Date of decision:19.12.2019**

Commissioner of Central Goods and Service Tax

.....Appellant

v.

PAN Overseas

.....Respondent

**Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Sant Parkash**

Present:- Mr.Tajender K.Joshi, Sr.Standing Counsel for appellant/
applicant

Jaswant Singh,J(Oral).

Since there is delay of 352 days in refiling the appeal, an application seeking condonation of delay has been filed.

Revenue is in appeal under Section 35G of the Central Excise Act,1944 against Final Order dated 31.05.2017 passed by CESTAT,Chandigarh, whereby respondent has been held entitled for exemption from payment of duty on dyeing activity of grey yarn.

In this appeal, the following substantial questions of law have been raised:-

- i) *Whether the CESTAT is justified in shifting the liability to pay duty upon the job workers instead of the Party, contrary to the provisions of Rule 12 B of the Central Excise Rules,2002, which clearly fixes the liability to pay duty on the person getting the textile and textiles articles manufactured on job work?*
- ii) *Whether the CESTAT is justified in holding the job worker liable to pay duty when no such option had been exercised by the job worker as per the First proviso to Rule 12 B of the Central Excise Rules,2002?*
- iii) *Whether the CESTAT is justified in allowing the benefit to the Party by referring to*

provisions of Notification No.214/86-CE(NT) dated 25.03.1986; which not the subject matter of contention?

iv) Whether the impugned final order is sustainable in the eyes of law.

Notice of motion is yet to be issued.

At the time of hearing, learned counsel for the appellant prays for withdrawal of the appeal in view of instructions dated 22.08.2019 (A-1) issued by Central Board of Indirect Taxes and Customs in exercise of power conferred by Section 35(R) of the Central Excise Act made applicable to the Service Tax vide Section 83 of the Finance Act, whereby the monetary limit for filing appeal before the Hon'ble High Courts has been revised to Rs.1 Crore and these instructions will apply to the pending cases as well as duty involved in this appeal is Rs.34 lacs.

In view of the above, the instant appeal is dismissed as withdrawn. However, the substantial questions of law raised herein would remain open.

Since the appeal is dismissed as withdrawn, no orders are required to be passed on the application seeking condonation of delay.

**(Jaswant Singh)
Judge**

19.12.2019.
joshi

**(Sant Parkash)
Judge**