

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

CEA No. 29 OF 2016(O&M)

Date of decision: 09.08.2016

Commissioner Central Excise Commissionerate .. Appellant
vs.
M/s Emsons Organics (P) Ltd. .. Respondent

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present:- Mr. Tajender K. Joshi, Advocate
for the appellant.

Rajesh Bindal, J.

The revenue has filed the present appeal on the following substantial questions of law arising out of the order dated 30.10.2015 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi(for short, the Tribunal):-

- “(i) Whether the Tribunal is correct in holding that the extended period of limitation cannot be invoked when the respondent has failed to disclose or suppressed the material information from the department as the same came to the knowledge of the Department during the course of Audit only?
- (ii) Whether the Tribunal is correct in holding that the show cause notice dated 4.11.2008 does not elaborate the reasons for extended period when the show cause contains the said allegation to that effect, in detail?

Learned counsel for the appellant submitted that though the issue has been decided on merits in favour of the revenue referring the judgment of Hon'ble the Supreme Court in case of **Maruti Suzuki India Ltd. vs. CCE Delhi, 2014(307) ELT 625 (SC) and Super Synotex (India) Ltd. vs. CCE Jaipur, 2014(301) ELT 273**, however, on the ground of limitation, the issue was decided in favour of the assessee. Once the assessee was found to be at fault in view of the law laid down by Hon'ble the Supreme Court, the extended period of limitation could have been permitted.

After hearing learned counsel for the appellant, we do not find any merit in the present appeal. The Tribunal has elaborately dealt with the issue of limitation. The assessee cannot be said to be at fault at that time in view of circular of the Board and earlier order of Tribunal in favour of the assessees.

Keeping in view the aforesaid facts, as the assessee was not at fault, the extended period of limitation was not available. No substantial question of law arises.

The appeal is accordingly dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

09.08.2016
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Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No