

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CEA 42/2018 (O&M)
Date of decision:05.09.2019

Commissioner of Central Excise,Ludhiana

.....Appellant

v.

M/s Auto Spares(India)Ladowali Road,Jalandhar.

.....Respondent

**Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Lalit Batra**

Present:- Mr.Amit Goyal,Sr.Standing Counsel for appellant.

Jaswant Singh,J,

Since there is delay of 1475 days in filing the instant appeal, application under Section 5 of the Limitation Act has been filed seeking condonation of said delay

Main case.

Respondent-company was found engaged in manufacturing and clearance of excisable goods like branded auto parts without getting itself registered with the Central Excise Department. Upon this show cause notice was issued raising demand of duties for Rs.52,84,424/- besides interest and penalty. Thereafter, the Adjudicating Authority vide order dated 30.12.2004 confirmed the demand of Rs.52,84,424/- alongwith interest and penalty. Aggrieved against the same, respondent filed an appeal

before CESTAT, New Delhi. The learned Tribunal vide order dated 20.11.2003 allowed the appeal filed by respondent on the point of limitation alone. Hence the present appeal in which following substantial questions of law have been raised:-

- i) Whether the Hon'ble Tribunal is correct and legally justified in setting aside the demand of Central Excise duty on goods bearing brand name of another person, without discussing the merits of the case.*
- ii) Whether the extended period of limitation should have been allowed to be invoked in the facts and circumstances of the case?*
- iii) Whether the Ld. Tribunal has erred in allowing the appeal on the point of limitation?*
- iv) Whether the assessee is liable to pay the duty alongwith interest and penalty in the facts and circumstances of the case?*

At the time of hearing, learned counsel for the appellant admits that in view of instructions dated 22.8.2019 issued by Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs (Judicial Cell) the instant appeal would not be maintainable before this Court, as demand amount i.e. Rs.52,84,424/- is to be recovered, which is below the monetary limit of Rs. 1 Crore.

In view of the said instructions dated 22.8.2019 learned counsel for the appellant prays for withdrawal of the instant appeal, however the question of law raised would remain open.

Dismissed as withdrawn with liberty aforesaid.

Since the main appeal has been dismissed as withdrawn, no orders are being passed on the application seeking condonation of delay.

**(Jaswant Singh)
Judge**

05.09.2019.
joshi

**(Lalit Batra)
Judge**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No