

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.2011 OF 2014  
(Arising out of SLP (C) No.19026 OF 2012)

M/s. N.T.C. Industries Ltd.

... Appellant

versus

Union of India & Ors.

... Respondents

ORDER

1. Leave granted.

2. The order of the High Court under challenge dealt with the appeal preferred by the assessee-appellant under Section 35G of the Central Excise Act, 1944 filed against the judgment and order passed by the Central Excise and Service Tax Appellate Tribunal (CESTAT) in Appeal No.89 of 2008. The appeal was admitted for consideration on the following substantial questions of law :

i) Whether the CESTAT was correct in disposing of the appeal filed by the appellant after only giving them an opportunity of arguments on the stay application?

(ii) Whether the Courts below have correctly appreciated the fact that Section 11A of the Central Excise Act, 1944 prescribed for issuance of a show cause notice and limitation thereunder for demand of duty in the facts of the present case while confirming the demand of duty and interest thereon?

(iii) Whether the Hon'ble CESTAT has appreciated the fact that if the recovery was to be made simplicitor under Section 154(4) of the Finance Act, 2003 as a result of withdrawal of exemption retrospectively then whether the machinery provided of the special procedure and independent mechanism provided for the recovery and the interest chargeable had been duly followed by the department while confirming the demand?

(iv) Whether the Hon'ble CESTAT was correct in confirming interest on the duty amount in the light of the amended provisions of Section 11AB when confirming interest on duty and refund amount for the period prior to 2001?

(v) Whether the CESTAT failed to appreciate that the Commissioner of Central Excise, Shillong by passing an ex parte order without giving an opportunity of personal hearing to the appellant had violated the principles of natural justice as the same had taken away the right of the appellant to represent their case and file material and submissions in support of their case."

3. We notice that the High Court did not answer the questions of law. The High Court, however, referred to a judgment of this Court in R.C. Tobacco (P) Ltd. & Anr. vs. Union of India & Anr. [(2005) 7 SCC 725] wherein this Court upheld the constitutional validity of Section 154 and Schedule IX of the Finance Act. We find substance in the submission of learned counsel for the appellant that the questions which the High Court had to answer were not really dependent on the upholding of the constitutional validity of Section 154 and the High Court ought to have answered those questions.

4. In the circumstances, we set aside the impugned order. We remand the matter to the High Court and request the High Court to deal with the questions of law set out in paragraph 1 of its order.

5. The appeal is disposed of in the aforesaid terms.

.....  
(Ranjana Prakash Desai)

New Delhi;

.....  
(Madan B. Lokur)

February 7, 2014

ITEM NO.43

COURT NO.14

SECTION III

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).19026/2012

(From the judgement and order dated 19/04/2012 in CEA No.3/2008 of The HIGH COURT OF GUWAHATI ,ASSAM)

M/S N.T.C.INDUSTRIES LTD.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With prayer for interim relief and office report )

Date: 07/02/2014 This Petition was called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI  
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr. Ravindra Shrivastava, Sr. Adv.  
Mr. Kunal Verma, Adv.  
Mr. Abhinav Shrivastava, Adv.

For Respondent(s) Mr. Ashok Kumar Panda, Sr. Adv.  
Mrs. Sunita Rani Singh, Adv.  
Mr. B. Krishna Prasad, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

[Gulshan Kumar Arora]  
Court Master

[Indu Pokhriyal]  
Court Master

(Signed order is placed on the file)