Serial No. 09
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Central Excise Ap. No. 21 of 2018

Date of order: 20.03.2019

The Commissioner of Goods & Service Tax, Shillong	Vs.	M/S Meghalaya Cast and Alloys Pvt. Ltd.

Coram:

Hon'ble Mr. Justice Mohammad Yaqoob Mir, Chief Justice
Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant (s) : Mr. N. Mozika, Adv.
For the Respondent(s) : Mr. D. Sahu, Adv.

Heard learned counsel for the parties.

According to the learned counsel for the appellant, the respondent is guilty of wilful mis-representation and has suppressed the facts, therefore, penalty in terms of Section 11 AC (a) of the Central Excise Act, 1944 was correctly imposed by the Commissioner of Central Excise, Shillong vide his order-in-original dated 28.02.2014. In appeal, learned Tribunal has upheld the other findings of the learned Commissioner Central Excise but imposition of penalty has been set aside on the ground of revenue neutrality, to that extent the appellant is aggrieved as according to him, penalty was rightly imposed.

In the order-in-original, it is clearly indicated that the respondent Company incorporated under Companies Act 1956 is a beneficiary of the North-east exemption notification No. 32/99 CE dated 08.07.1999. When it is so, the important question as arose for consideration is as to whether there could be any intention to evade payment of duty so as to attract penalty under Section 11 AC (a), in this behalf learned counsel for the respondent has placed reliance on the judgment passed by the Hon'ble Apex Court in the case of ***Commissioner v. Indeos ABS Ltd.*** reported in ***2011 (267) ELT A155 (SC)***.

Confronted with the stated position, learned counsel for the appellant seeks two days' time to have instructions and to render further assistance.

Post on 25.03.2019.

(H. S. Thangkhiew)
Judge

(Mohammad Yaqoob Mir)
Chief Justice

Meghalaya
20.03.2019
"Sylvana PS"