

CUSTOMS,EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD
REGIONAL BENCH : COURT NO – 3

Excise Appeal No. 214 of 2012-DB

(Arising out of OIO No.- AHM-CEX-003-COM-003-12 dated 31.01.2012 passed by Commissioner of Commissioner of Central Excise-AHMEDABAD-III)

M/s Shaifali Ltd.

Appellant

1563, Sola-Kalol Road,
Village : Santej, Taluka : Kalol,
Gandhinagar,
Gujarat
-VERSUS-

C.C.E. & S.T., Ahmedabad-iii

Respondent

Custom House... 2nd Floor,
Opp. Old Gujarat High Court, Navrangpura,
Ahmedabad,
Gujarat
380009

WITH

Excise Appeal No. 215 of 2012-DB

(Arising out of OIO No.- AHM-CEX-003-COM-003-12 dated 31.01.2012 passed by Commissioner of Commissioner of Central Excise-AHMEDABAD-III)

Rameshbhai Fulshankar Trivedi

Appellant

Excise In Charge Of M/s, Shaifali Steels Ltd,
1563, Sola-Kalol Road,
Village : Santej, Taluka : Kalol,
Gandhinagar,
Gujarat
-VERSUS-

C.C.E. & S.T., Ahmedabad-iii

Respondent

Custom House... 2nd Floor,
Opp. Old Gujarat High Court, Navrangpura,
Ahmedabad,
Gujarat
380009

Present For the Appellant : Shri Amal Dave, Advocate

Present For the Respondent : Shri T.G. Rathod, Jt. Commr.(AR)

CORAM:

HON'BLE MEMBER (JUDICIAL) , MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU

ORDER

Date of Hearing: 20/08/2019
Date of Decision: 20/08/2019

RAMESH NAIR

Shri Amal P. Dave, Ld. Counsel appearing on behalf of the appellant submits that even though the appeal in the case of Indsur Global Ltd. vs UOI- 2014 (310)E.L.T. 833 (Guj.) is pending before the Hon'ble Supreme Court, this Tribunal can proceed with the matter. He submits that different High Courts have taken up different views, the matter can be decided on that basis. He also submits that even though appeal of the Revenue is admitted by the Hon'ble Supreme Court, this Tribunal still can decide the matter. He placed reliance on the following judgments:

1. Frontier Alloy Steels Ltd. v/s Union of India 2017 (354) ELT 54(All.)
2. Union of India v/s Frontier Alloy Steels Ltd. 2017 (354) ELT A17 (S.C.)
3. A.T.V. Projects India Ltd. v/s Union of India 2016(341) ELT 603 (All.)
4. Union of India v/s A.T.V. Projects India Ltd. 2017 (349) ELT A90 (S.C.)
5. Malladi Drugs & Pharmaceuticals Ltd. v/s Union of India 2015 (323) ELT 489 (Mad.)
6. Commr. v/s Titan Industries Lt.d 2016 (341) ELT A 155 (S.C.)
7. Commr. v/s hari Alloys Pvt. Ltd. 2016 (342) ELT A228 (S.C.)
8. Union of India v/s Indsur Global Ltd. 2018 (362) ELT A67 (S.C)
9. Principal Commr. of C.Ex. Delhi-I v/s Space Telelink Ltd. 29017 (355) ELT 189 (Del.)
10. Institute of Aeronautics & Engineering v/s Commr. of C.Ex. Bhopal 2018 (10) GSTL 267 (tri- Del.)
11. GEI Industrial Systems Ltd. v/s CCE, Bhopal 2017 (347) ELT 289 (Tri.-Del.)
12. Claris Lifescience Ltd. v/s Union of India 2016 (336) ELT 612 (Guj.)

2. On the contrary Shri T.G. Rathod, Ld. Jt. Commissioner (AR) appearing on behalf of the Revenue submits that as per the Hon'ble Supreme Court judgment in the case Union of India v/s West Coast Paper Mills Ltd. 2004 (164) ELT 375 (SC). The Hon'ble Supreme Court held that even though appeal was admitted by the Supreme Court, the judgments of the lower authorities are in jeopardy. He also relied on the decision of the Tribunal in the case of Alumeco India Extrusion Ltd. 2018 (363) ELT 486 (Tri. Hyd.) wherein this Tribunal following the Supreme Court in the case of West Coast Paper Mills Ltd. (supra) held that the matter can be decided only after the outcome of the Hon'ble Supreme Court judgment on the merit.

3. Considering the submission made by both the sides, we find that there are contrary judgments on the issue whether under such circumstances, this tribunal should proceed with the matter or otherwise. Therefore, we are of the view that

matter can be disposed off only after the Hon'ble Supreme Court decides the matter in the case of Wind global (supra). Accordingly, the matter is adjourned sine die. Both sides have the liberty to mention as and when the Supreme Court decides the matter.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member(Technical)

Diksha