IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT – IV

Excise Appeal No. E/56545/2013 [DB]

[Arising out of Order-in-Original No. Commissioner- RPR-CEX-112-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

Excise Appeal No. E/56548/2013 [DB]

[Arising out of Order-in-Original No. Commissioner- RPR-CEX-113-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

Excise Appeal No. E/56177/2013 [DB]

[Arising out of Order-in-Original No. Commissioner-RPR-CEX-114-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

Excise Appeal No. E/56178/2013 [DB]

[Arising out of Order-in-Original No. Commissioner-RPR-CEX-115-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

Excise Appeal No. E/56547/2013 [DB]

[Arising out of Order-in-Original No. Commissioner- RPR-CEX-116-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

Excise Appeal No. E/56181/2013 [DB]

[Arising out of Order-in-Original No. Commissioner-RPR-CEX-117-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

Excise Appeal No. E/56549/2013 [DB]

[Arising out of Order-in-Original No. Commissioner- RPR-CEX-118-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

Excise Appeal No. E/56180/2013 [DB]

[Arising out of Order-in-Original No. Commissioner-RPR-CEX-119-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

Excise Appeal No. E/56546/2013 [DB]

[Arising out of Order-in-Original No. Commissioner-RPR-CEX-120-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

Excise Appeal No. E/56179/2013 [DB]

[Arising out of Order-in-Original No. Commissioner-RPR-CEX-121-2012 dated 14.12.2012 passed by the Commissioner (Appeals), Central Excise, Raipur]

South Eastern Coalfields Limited ...Appellant

Vs.

C.C.E. & S.T., Raipur ... Respondent

Excise Appeal No. E/56544/2013 [DB]

[Arising out of Order-in-Original No. 59-Commissioner-CEX-ADJ-2012 dated 27.11.2012 passed by the Commissioner (Appeals), Central Excise, Bhopal]

Excise Appeal No. E/56551/2013 [DB]

[Arising out of Order-in-Original No. 67-Commissioner-CEX-ADJ-JBP-2012 dated 04.12.2012 passed by the Commissioner (Appeals), Central Excise, Bhopal]

Excise Appeal No. E/56550/2013 [DB]

[Arising out of Order-in-Original No. 68-Commissioner-CEX-ADJ-JBP-2012 dated 04.12.2012 passed by the Commissioner (Appeals), Central Excise, Bhopal]

South Eastern Coalfields Limited ...Appellant

Vs.

CGST CE &CC, Bhopal ... Respondent

Present for the Appellant : Mr. Hemant Bajaj & Dhruv Tiwari, Advocates

Present for the Respondent: Mr. M.R. Sharma, D.R.

Coram: HON'BLE MR. BIJAY KUMAR, MEMBER (TECHNICAL)
HON'BLE MRS. RACHNA GUPTA, MEMBER (JUDICIAL)

Date of Hearing /Decision 31.07.2018

FINAL ORDER NO. 52682-52694/2018

PER: RACHNA GUPTA

All the Appeals are taken together, the issue being common to all. The appellants herein are Government of India undertaking and the wholly owned subsidiary companies of M/s Coal India Ltd. engaged in the business of mining and selling of coal at the mines located in the state of Madhya Pradesh/ Chhattisgarh and Bhopal. It was alleged by the Department that the appellants have collected royalty, towing excise duty, transit fee, MPGATSDA tax, terminal tax, entry tax, etc. from its customers which were not included in the accessible value for discharging central excise duty on coal. Demand was raised vide respective Show Cause Notices which has been confirmed vide the Orders under challenge, resultantly, the present Appeals.

2. We have heard both the parties. It is submitted on the behalf of appellant that the issue about royalty to be taxed or not is sub judiced and is pending for consideration before the Constitution Bench of the Hon'ble Apex Court. Ld. DR has conceded the same.

3. Since both the parties have agreed that the identical issue has come up before the Tribunal in the assessee's case – (M/s Western Coalfields Ltd.) in Excise Appeal No. 57884, 57908 & 58595/2013 dated 05.01.2017, where it was observed that the issue involved in the present Appeals is sub judice before the Hon'ble Supreme Court in matter of Civil Appeal No. 4056-4064 of 1999 (Mineral Area Development Vs. Steel Authority of India). Hence, a request was made that the hearing of the Appeals may be adjourned sine die with a liberty to move an application after the decision of Hon'ble Supreme Court in Civil Appeal No. 4056-4064/1999. By considering the totality of facts and circumstances of the case and by following

our earlier decision supra, we grant liberty to the appellants to come again after having final verdict from the Supreme Court supra, within a prescribed time, if advice so. All the Appeals herein are disposed of giving liberty to the parties to seek the appropriate remedy to come again after the outcome of the said decision.

[Dictated and pronounced in the open Court]

(RACHNA GUPTA)	**(BIJAY KUMAR)**
MEMBER (JUDICIAL)	**MEMBER (TECHNICAL)**

D.J.