IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH: KOLKATA

Excise Appeal No.241/2009

(Arising out of Order-in-Original No. 50/COMMR/CE/KOL-III/2008-2009 dated 06.02.2009 passed by the Commissioner of Central Excise, Kolkata-III)

M/s. Pulsar Rubber Manufacturing Co. (P) Ltd.

Applicant (s)/Appellant (s)

Versus

Commr. of Central Excise, Kolkata-III

Respondent (s)

Appearance:

Shri B.N. Chattopadhyay, Consultant for the Appellant (s)

Shri S. Mukhopadhyay, Supdt. (A.R.) for the Respondent (s)

CORAM:
SHRI P.K. CHOUDHARY, HON'BLE JUDICIAL MEMBER
SHRI V. PADMANABHAN, HON'BLE TECHNICAL MEMBER

Date of Hearing/Decision :- 06.03.2019

ORDER NO. : FO/75264/2019

PER SHRI P.K. CHOUDHARY

When the matter was called, the Ld. Consultant appearing on behalf of the appellant submits that against the stay order No. S-76/KOL/2010 dated-01/03/2010 the appellants were directed to pay pre-deposit amount of Rs.50.00 Lakh. The appellants have filed a writ petition before the Hon'ble High Court of Calcutta and the same is still pending before the Hon'ble High Court.

2. The Hon'ble High Court vide interim order dated 31/01/2012 has observed as under:

> *"Since the learned advocate for the petitioners submits that while passing the order dated 18th November, 2011 dismissing the application for modification of the order dated 1st March, 2010 passed by the Learned Customs, Excise and Service Tax Appellate Tribunal, the Tribunal did not consider the point of law canvassed and as the Income Tax Officer in his order under section 154 of the Income Tax Act, 1961 had recorded that the mistake was apparent from record, in that view of the matter,*

> *the respondent authorities are directed not to take any coercive action till 4th May, 2012."*

Subsequently, the Hon'ble High Court on 4th May, 2012 has further observed as under:

> *" Since a view has been taken on the basis of the petition by the order dated January 31, 2012, such interim order will continue till the disposal of the petition."*

Since the writ petition has not been finally disposed off by the Hon'ble High Court and the appellants have not complied with the stay order, it would be appropriate under the circumstances of the case to keep the hearing of the appeal in abeyance till the disposal of the writ petition by the Hon'ble High Court.

(Dictated and pronounced in the open court)

V. PADMANABHAN (TECHNICAL MEMBER)	P.K. CHOUDHARY (JUDICIAL MEMBER)

k.b/-