

(2012) 06 CAL CK 0011

Calcutta High Court

Case No: CEXA No. 9 of 1012 and GA No. 1466 of 2012

E.C. Bose and Company Pvt. Ltd.

APPELLANT

Vs

Commissioner of Service Tax

RESPONDENT

Date of Decision: June 12, 2012

Citation: (2013) 295 ELT 41

Hon'ble Judges: Kalyan Jyoti Sengupta, J; Asim Kumar Mondal, J

Bench: Division Bench

Advocate: Chakraborty and Mr. Bhardwaj, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

1. Dispensing with all formalities, we take up the application as well as the appeal for final hearing. We have heard Dr. Chakraborty and Mr. Bhardwaj. We have gone through the impugned judgment of the learned Tribunal. We think that when the application for modification was made, the same should have been dealt with either by passing an appropriate order or by rejecting the same. We think that the appeal should not have been dismissed. However, when we notice that the appeal was taken up for hearing on several days and the appellant did not bother to appear to press the appeal and the learned Tribunal suo motu passed an order asking the appellant to deposit the entire amount, we think that the deposit of the entire amount would be too harsh. We therefore set aside the impugned order before us and we pass following order.

2. In the event the appellant deposits 50% of the basic amount of tax in terms of the earlier order of the learned Tribunal and the balance 50% thereof is secured by furnishing a bank guarantee of a nationalised bank in favour of the Commissioner of Service Tax within a fortnight from the date of receipt of the copy of this order then the appeal itself would be heard on merit in accordance with law and all points are kept open.

3. In the event no deposit as above is made nor any bank guarantee is furnished, the order passed by the learned Tribunal which is impugned before us will stand revived.
4. The application along with the appeal according stand disposed of. Urgent xerox certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.