ITEM NO.2   COURT NO.15   SECTION IV-A

S U P R E M E   C O U R T   O F   I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No.6181/2022

(Arising out of impugned final judgment and order dated 15-01-2021
in CEA No. 46/2014 passed by the High Court Of Karnataka at
Bengaluru)

THE COMMISSIONER OF SERVICE TAX   Petitioner(s)

VERSUS

M/S SILVERLINE ESTATES   Respondent(s)

(FOR ADMISSION and I.R. and IA No.51066/2022-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT)

Date : 29-04-2022 This petition was called on for hearing today.

CORAM :
        HON'BLE MR. JUSTICE SANJIV KHANNA
        HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s)   Mr. N. Venkataraman, ASG
                     Ms. Nisha Bagchi, Adv.
                     Mr. Rupesh Kumar, Adv.
                     Ms. Preeti Rani, Adv.
                     Mr. P.V. Yogeswaran, Adv.
                     Mr. Aniruddha Purushotham, Adv.
                     Mr. Mukesh Kumar Maroria, AOR

For Respondent(s)

            UPON hearing the counsel the Court made the following
                            O R D E R

        Learned Additional Solicitor General submits that sub-section

(2) of Section 73A of the Finance Act, 1994 is mandatory. He

submits that when in doubt the assessee must deposit the disputed

tax collected as there are provisions with regard to the

assessment/adjudication of the tax due and payable in form of

provisional assessment or even regular assessment on filing of the

returns by the assessee. It is for the Central Government to make the deposit to the Consumer Welfare Fund or to refund the amount to the person who has borne the incidence of indirect tax in terms of sub-section (6) of Section 73A of the Finance Act, 1994. Law does not require that the assessee will either refund the amount to the person who has borne the incidence of tax or pay the amount to the Consumer Welfare Fund.

In view of the submissions made, issue notice, returnable within 6 weeks.

Counter affidavit/reply would be filed within three weeks of service. Rejoinder, if any, be filed within two weeks of filing the counter affidavit/reply.

List in the month of August, 2022.

(ARUSHI SUNEJA)   (DIPTI KHURANA)
SENIOR PERSONAL ASSISTANT   COURT MASTER (NSH)