IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.11.2015

Coram

The Honourable Mr.Justice M.JAICHANDREN

and

The Honourable Mrs.Justice S.VIMALA

C.M.A.No.2045 of 2008

The Commissioner of Central Excise and Service
Tax Large Taxpayer Unit,
1775, Jawaharlal Nehru Inner Ring Road
Anna Nagar Western Extension
Chennai - 600 101 ... Appellant/Respondent

-vs-

1. M/s.Hyundai Motor India Ltd.,
Plot No.H-1, SIPCOT Industrial Park
Irungattukottai, Sriperumpudur Taluk
Kancheepuram District - 602 105 ... Respondents/Appellant

2. Customs, Excise & Service Tax Appellate Tribunal
South Zonal Bench, Shastri Bhavan Annexe
I Floor, 26, Haddows Road
Chennai - 600 006 ... Respondents/2nd Respondent

The Civil Miscellaneous Appeal has been filed against the final order No.966 of 2007, dated 3.8.2007 on the file of the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For appellant : Mr.A.P.Srinivas

For respondent : Mr.K.Magesh for R1
R-2 Tribunal

J U D G M E N T

Heard the learned counsels appearing for the parties concerned.

2. At this stage of the hearing of the Civil Miscellaneous Appeal, the learned counsel appearing for the appellant had submitted that the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai, had set aside the order passed by the Commissioner of Central Excise (Appeals), Chennai, in Order-in-Appeal No.122/2002 (M-II), dated 12.9.2002, confirming the Order-in-Original No.41 of 2010, dated 27.8.2001, passed by the Commissioner of Central Excise, Chennai, based on the Judgment of the Larger Bench of the Tribunal, in the case of VIKRAM ISPAT Vs. COMMISSIONER OF CENTRAL EXCISE, MUMBAI-III 2000 (120) E.L.T. 800 (TRIBUNAL - LB). However, it has been stated that the main issue relating to the interpretation of Rule 57AB of the Central Excise Rules, 1944, had not been gone into by the Tribunal, while passing its impugned order, dated 3.8.2007, considering the notification No.27/2000-CE (NT), dated 31.3.2000.

3. The learned counsel appearing for the first respondent had not refuted the said submissions made by the learned counsel appearing for the appellant.

4. In such circumstances, without going into the merits of the matter, the impugned order of the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai, dated 3.8.2007, is set aside and the matter is remitted back to the Tribunal to reconsider the issue relating to the applicability of Rule 57AB of the Central Excise Rules, 1944, by taking into consideration the notification No.27/2000-CE (NT), dated 31.3.2000. The Tribunal shall pass appropriate orders, on merits and in accordance with law, as expeditiously as possible. As the said issue had not been raised before the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai, by the appellant, as well as the first respondent, the Tribunal shall afford an opportunity to the appellant, as well as the first respondent, to raise all the grounds applicable to them, at the time of the hearing of the appeal.

Accordingly, the Civil Miscellaneous Appeal is disposed of with the above directions.
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Sd/-
Assistant Registrar (IV)

/True Copy/

Sub-Assistant Registrar

To

The Customs, Excise & Service Tax Appellate Tribunal
South Zonal Bench, Shastri Bhavan Annexe
I Floor, 26, Haddows Road
Chennai - 600 006

+1 C.C. To MR.K.Magesh, Advocate in SR.NO.64422

C.M.A.No.2045 of 2008

CNR(CO)
sd : 23/12/2015