

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

and

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CENTRAL EXCISE APPEAL No.102 of 2015

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ORDER: (per RR, J)

The order under appeal is passed by the Customs, Excise & Service Tax appellate Tribunal, Bangalore (CESTAT), in Appeal No.1 of 2008 dated 19.02.2008. The question, which arose for consideration before the CESTAT, was whether the respondent assessee could utilize Cenvat credit for payment of service tax on Goods Transport Agency Services. Before the CESTAT, both the learned counsel for the Revenue and the assessee agreed that the issue was covered by the decision of the Madras High Court in **COMMISSIONER OF CENTRAL EXCISE v. M/s. CHERAN SPINNERS LTD.** The CESTAT held that, since the issue was covered by the judgment of the Madras High Court in favour of the assessee, the appeal filed by the Revenue stood rejected.

Before us, Sri P.S.P.Suresh Kumar, learned Standing Counsel for Central Excise, does not even contend that the judgment of the Madras High Court is inapplicable to the facts of the present case, or that this Court should take a different view from that of the law declared therein. The only contention urged is that a Special Leave Petition, preferred by the Revenue against the order of the Madras High Court, is still pending before the Supreme Court. The mere fact that SLP is pending before the Supreme Court does not render the judgment of a High Court inapplicable. As long as the judgment of the High Court is in force, and has not been set aside by the Supreme Court, the law declared therein would bind the CESTAT. While it was

open to the Revenue to canvass before this Court that the judgment of the Madras High Court ought not to be followed, no such contention is advanced.

We see no reason, therefore, to interfere with the order under appeal. The appeal fails and is, accordingly, dismissed.

Miscellaneous Petitions pending, if any, shall also stand dismissed.

RAMESH RANGANATHAN, J

2nd DECEMBER, 2015.

M.SATYANARAYANA MURTHY, J

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