IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23-12-2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G. RAMESH
AND
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

C.M.A.No.1101 and 1102 of 2011

The Commissioner of Central Excise
Chennai II Commissionerate
No.692, MHU Complex, Anna Salai
Nandanam, Chennai - 600 035 ..Appellant

Vs.

1. M/s. Southern Auto Costing (P) Ltd.,
Plant-II,
F-30A&30C, SIPCOT Industrial Complex
Gummidiponndi - 601 201 ..1st Respondent in C.M.A.1101/2011

1. M/s. Southern Auto Costing (P) Ltd.,
Foundry Division
F-33&34, SIPCOT Industrial Complex
Gummidiponndi - 601 201 .. 1st Respondent in C.M.A.1102/2011

2. The Customs, Excise and Service tax Appellate Tribunal
South Zone Bench,
Shastri Bhavan Annex
1st Floor, No.26, Haddows Road
Chennai - 600 006 .. Respondents in both appeals

(Cause titled accepted vide order of Court dated 01-04-2011 made inM.P.No1 of 2011 in CMA SR No.4515 of 2010)

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Civil Miscellaneous Appeals under new Section 35G of the Central Excise Act, 1944 against the CESTAT's final order No.1216 and 1215, 1209 respectively dated 08-09-2009 in Appeal No.E/715/07 and E/714/2007 on the file of the Honourable Customs, Excise and Service Tax Appellate Tribunal, South Zone Bench, Chennai.

For appellants :: Mr. A.P. Srinivas,
Senior Standing Counsel

For respondents:: Mr. S. Jaikumar for R1
R2 Tribunal

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JUDGMENT

(Dr. ANITA SUMANTH,J.)

These civil miscellaneous appeals are filed against the order of Customs, Excise and Service Tax Appellate Tribunal in final order No.1216 dated 08-09-2009.

2. The following substantial questions of law are raised:

> "1. In the fact and circumstances of the case, whether the 1st respondent can take credit based on TR-6 Challans dated prior to 16-06-2005 on which the ST paid on GTA services
>
> 2. Whether the 3rd respondent was correct in law in applying the ratio of the Tribunal's Larger Bench decision in the case of ABB Ltd., & Ors. Vs. CCE & Service Tax, Bangalore &Ors., reported in 2009 - TIOL - 830 - CESTAT - BANG - LB - 2009 (15) S.T.R. 23 (Tri-L.B.),which were appealed before the Hon'ble High Court."

3. The learned counsel bring to our notice Circular in C.No.I/10/10/2016 Legal dated 21-03-2016, wherein it is stated that the Central Board of Excise and Customs, New Delhi vide letter F.No.390/Misc./163/2010 J.C. dated 17-12-2015 has fixed the monetary ceiling for filing appeals before the High Court at Rs.15,00,000/-. Learned counsel for the Department thus seeks to withdraw the appeals.

4. In view of the above, without going into the merits and preserving the questions of law for adjudication in an appropriate case, these civil miscellaneous appeals are dismissed as withdrawn. No costs.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

glp

To

The Customs, Excise and Service
   tax Appellate Tribunal
South Zone Bench, Shastri Bhavan Annex
1st Floor, No.26, Haddows Road
Chennai - 600 006.

+ 1 cc to Mr.S. Jaikumar, Advocate SR.76093
+ 1 cc to Mr.A.P. Srinivas, Advocate Sr.76235

C.M.A.No.1101 and 1102 of 2011

BR(CO)
Eu 24.4.17

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