

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 9/6/2016

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice D.Krishnakumar

Civil Miscellaneous Appeal No.2248 of 2011
&
MP No.1 of 2011

The Commissioner of Customs
Chennai Airport
Air Cargo Complex
Meenambakkam
Chennai 600 027.

... Appellant

Vs

M/s.Proteck Machinery Pvt Ltd
No.7 Ramkoti Apartments
3rd Floor
Gandhi Nagar 1st Main Road
Adyar
Chennai 600 020.

... Respondent

Prayer: Appeal filed under Section 130 of the Customs Act, 1962 against the Final Order No.1285 of 2010 dated 16/12/2010 of the Customs, Excise and Service Tax Appellate Tribunal, Chennai.

For appellant : Mr.K.Mohana Murali

For respondent : Mr.K.Jayachandran

J U D G M E N T

(Judgment of the Court was made by S.Manikumar,J)

This Appeal has been filed against the Final Order No.1285 of 2010 dated 16/12/2010 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

2. The substantial questions of law raised in the instant appeal are:-

"1. Whether on the facts and circumstances of the case, the Appellate Tribunal is right in law in allowing the assessee appeal without properly considering the definition of Capital Goods under the Foreign Trade Policy?

2. Whether on the facts and circumstances of the case the Appellate Tribunal is right in law in allowing the assessee appeal without properly considering that the importer has no license to import the used machine tools?

3. Whether on the facts and circumstances of the case the Appellate Tribunal is right in law in setting aside the redemption fine of Rs.1,80,000/- and penalty of Rs.50,000/- as the goods were re-exported and drawback were claimed by the importer?"

3. On this day, when the matter came up for hearing, Mr.K.Mohana Murali, learned Standing Counsel appearing for the appellant submitted that on the basis of the instructions given in Circular No.I/10/10/2016 Legal, dated 21/3/2016, appellant department has instructed him to withdraw the appeal.

4. Placing on record the above submission, while dismissing the Civil Miscellaneous Appeal No.2248 of 2011, as withdrawn, substantial questions of law raised are left open. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mvs.

1 cc to M/s.K.Mohanamurali, Advocate, sr.31087
1 cc to M/s.K.Jayachandran, Advocate, sr.31701

Civil Miscellaneous Appeal No.2248 of 2011

rsk co
kra 11.07.2016