IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11/7/2016

C O R A M

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

Civil Miscellaneous Appeal No.2498 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.Blue Bay Mineral Water Co
Survey No.14 Athur Village
Ponneri (T.K)
Tiruvallur District.

2. The Customs Excise and Service Tax
Appellate Tribunal
South Zonal Bench
Sastri Bhawan Annex
I Floor, No.26 Haddows Road
Chennai 6. ... Respondents

Prayer: Appeal filed under Section 35 G of the Central Excise Act, 1944 against the Final Order No.1146 of 2010 dated 27/10/2010 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For appellant : Mr.A.P.Srinivas
Senior Standing Counsel

For respondent : No appearance for R.1

R.2- Tribunal

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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.1146 of 2010 dated 27/10/2010 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Chennai.

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

> "1. In the fact and circumstances of the case, whether the Final Order is legal and proper when the Government Order Ms.No.2395 RD & LA dated 4/12/76 is a notified order by the State Government and hence the village 'Athur' falls within the scope of exclusion clause (ii) of the Explanation of "Rural area" in the Notification No.8/2000-CE dated 1/3/2000 and Notification No.8/2001 - CE dated 1/3/2001.
>
> 2. Whether the Honourable Tribunal is correct in ignoring the provisions of Sec 6 A of Tamil Nadu Urban Land Tax Act, 1966 and solely relying on the Certificate issued by the Tahsildar in classifying the village as Rural area.
>
> 3. Consequently, whether in the fact and circumstances of the case, whether the first respondent herein mentioned can avail the Small Scale Exemption under Notification No.8/2000 dated 1/3/2000 as amended and 8/2001 dated 1/3/2001 for the years 2000 - 01 and 2001 - 02."

3. On this day, when the matter came up for hearing, Mr.A.P.Srinivas, learned Standing Counsel appearing for the Department 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.2498 of 2011, as withdrawn, substantial questions of law raised are left open. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Assistant Registrar
Customs Excise and Service Tax Appellate Tribunal
South Zonal Bench
Sastri Bhawan Annex
I Floor, No.26 Haddows Road
Chennai 6.

2. The Commissioner of Central Excise
Chennai-II Commissionerate
No.692 MHU Complex AnnaSalai
Nandanam Chennai-35

+1 cc to Mr.A.P.Srinivas Advocate sr.38751

Civil Miscellaneous Appeal No.2498 of 2011

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