

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.07.2016

C O R A M

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

CMA No.1207 of 2007

The Commissioner of Central Excise,  
Chennai . . . . Appellant

Vs

M/s.C.R.Rolling Mills . . . . Respondent

Prayer: Appeal filed against the Final Order No.747/2005 dated 24.5.2005, which was served upon the appellant on 10.06.2005 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai confirming the Order dated 2.4.2004 made in Order-in-Appeal No.10/2004 (MI) on the file of Commissioner of Central Excise, (Appeals), Chennai to set aside the same.

For appellant : Mr.A.P.Srinivas  
Sr. Standing Counsel  
for Central Excise.

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.747 of 2005 dated 24.05.2005 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 are:-

"a. Whether there is any discretion available to original or appellate authorities to levy penalty less than the amount of payment defaulted under Rule 96ZP (3) of Central Excise Rules, 1944.

b. Whether the Commissioner (Appeals) and the Appellate Tribunal are right in reducing the penalty

from Rs.3,74,022/- to Rs.12,000/- when the said penalty was imposed in accordance with the Rule 96ZP (3) of Central Excise Rules, 1944, when the respondent has committed default in the payment of duty?"

3. On this day, when the matter came up for hearing, Mr.A.P.Srinivas, learned Senior 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 Placing on record the above submission, while dismissing the Civil Miscellaneous Appeal No.1207 of 2007, as withdrawn, substantial questions of law raised are left open. No costs.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Central Excise,  
Chennai.

2.Customs of Excise & Service Tax Appellate Tribunal,  
South Zonal Branch, Chennai.

+1cc to Mr.A.P.Srinivas, Advocate Sr.39489

CMA No.1207 of 2007

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