IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30/6/2016

C O R A M

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.132 of 2010

The Commissioner of Central Excise
Chennai III Commissionerate
121 Utthamar Gandhi Salai
Nungambakkam
Chennai 34. ... Appellant/Respondent

Vs

1. M/s.Krishna Fabrications Pvt Limited
Village No.5 GST Road
Guduvanchery 603 202. ...Respondent/Appellant

2. Customs, Excise &
Service Tax Appellate Tribunal
South Zonal Bench
1st Floor Shastri Bhavan Annexe
26 Haddows Road
Chennai 600 006. ... Respondents

(R.2 – given up)

Prayer: Appeal filed under Section 35 G of the Central Excise Act, 1944 against the Final Order No.745 of 2009 dated 19/6/2009 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Chennai.

For appellant : Mr.K.Mohana Murali

For respondent : Mr.Mohammed Shaffiq
for R.1.

R.2 - Tribunal

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.745 of 2009, dated 19/6/2009, 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:-

> "1. Whether the Hon'ble CESTAT, Chennai in the Final Order No.745 of 2009 dated 19/6/2009 was right in upholding the decision of Hon'ble CESTAT, Larger Bench, Bangalore in Misc.Order No.276 of 282/2009 dated 18/5/2009 i.e., cenvat credit is allowable in respect of outward transportation of goods even beyond the place of removal?
>
> 2. Whether in view of the varying interpretation of the term 'input service' in various decisions, the Hon'ble CESTAT, Chennai was right in interpreting the term in the manner as in the order?"

3. On this day, when the matter came up for hearing, Mr.K.Mohana Murali, 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 Placing on record the above submission, while dismissing the Civil Miscellaneous Appeal No.132 of 2010, as withdrawn, substantial questions of law raised are left open. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. Customs, Excise &
   Service Tax Appellate Tribunal
   South Zonal Bench
   1st Floor Shastri Bhavan Annexe
   26 Haddows Road
   Chennai 600 006.

+1cc to Mr.K.Mohana Murali, Advocate, S.R.No.36338

Civil Miscellaneous Appeal No.132 of 2010

SVI(CO)
CA(19/07/2016)