IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.07.2016

C O R A M

The Honourable Mr.Justice S.Manikumar

and

The Honourable Mr.Justice D.Krishnakumar

Civil Miscellaneous Appeal No.2283 of 2010

and M.P.No.1 of 2010

The Commissioner of Central Excise
Coimbatore. ... Appellant

..Vs..

M/s. Autoprint Machinery Manufacturers Pvt. Ltd.,
(Unit-III), Site No.561/1,
Kalappanaickenpalayam Pirivu,
Thadagam Main Road,
Near Kanuvai,
Coimbatore - 641 108. ... Respondent

Prayer: Appeal filed under Section 35 G (2)of the Central Excise Act, 1944 against the Final Order No.140 of 2010 dated 22.01.2010 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
for Central Excise
for Mr.A.P.Srinivas

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.140 of 2010 dated 22.01.2010 passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai Bench.

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

"1. Whether the Tribunal was right in allowing CENVAT Credit of Service Tax paid on 'erection and commissioning services', which are post manufacturing activity undertaken at the premises of their Customers and which is not admissible to them in view of Rule 2 (1) and Rule 3(1)(xi)(ii) of CENVAT Credit Rules, 2004. and

2. Whether the Tribunal was correct in allowing the appeal by relying only on a case, which has been appealed against in Gujarat High Court of Ahmedabad, without considering / refuting the findings of the Adjudicating and Appellate Authorities.

3. Whether the Tribunal is right in relying on the case of Commissioner of Central Excise, Vapi Vs. Alidhara Textool Engineers Pvt. Ltd. [2009(14) S.T.R.305 (Tri.-Ahmd)].... which is inapplicable to the facts of this case"

3. Today, the instant Civil Miscellaneous Appeal is listed under the caption 'for withdrawal'.

4. We have gone through the material on record. That apart, Mr.T.R.Senthil Kumar, learned Senior Standing Counsel appearing for the Revenue submitted that the duty element is Rs.1,68,750/-, which is very much within the ceiling limit prescribed in Circular No.I/10/10/2016 Legal, dated 21/3/2016 and on that basis, appellant department has instructed him to withdraw the appeal.

5. Placing on record the above submission, while dismissing the Civil Miscellaneous Appeal No.2383 of 2010, as withdrawn, substantial questions of law raised, are left open. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To
The Assistant Registrar,
Customs, Excise and Service Tax Appellate Tribunal,
South Zonal Bench, Shastri Bhavan Annexe,
Ist Floor 26, Haddows Road, Chennai-600 006.

+1cc to M/S.A.P.Srinivas, Senior Counsel, Sr.42553

Civil Miscellaneous Appeal No.2283 of 2010

mp[co]
srg 11/08/2016