IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14/6/2016

C O R A M

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

Civil Miscellaneous Appeal No.2671 of 2007

The Commissioner of Central Excise
Central Excise Commissionerate
No.1 Williams Road
Tiruchirapalli 620 001. ... Appellant/Respondent

Vs

M/s.Kothari Sugars and Chemicals Ltd
Kothari Building
115 Mahatma Gandhi Salai
Chennai 34. ... Respondent/Appellant

Prayer: Appeal filed under Section 35 G of the Central Excise Act, 1944 against the Final Order No.1494 of 2005 dated 21/11/2005 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Chennai as against the Commissioner of Customs and Central Excise (Appeals II) No.1, Williams Road, Tiruchirapalli, dated 20.10.2013 in A.No.29/2003 TRY II, as against the Deputy Commissioner of Central Excise II Division, Tiruchirapalli, dated 30.04.2003 in C.No.V/17/30/56/2002-Cx.Adj.

For Appellant : Mrs.R.K.Sekina Reshma

For Respondent : Mr.K.Vaitheeswaran

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.1494 of 2005 dated 21/11/2005 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Chennai.

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

"Whether provisions of the second proviso to Rule 57 R (2) of Central Excise Rules, 1944 can be ignored and Modvat Credit on capital goods can be allowed when part of electricity manufactured using such capital goods is not used in the factory but sold outside?"

3. On this day, when the matter came up for hearing, Mrs.R.K.Sekina Reshma, 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 her to withdraw the appeal.

4. Placing on record the above submission, while dismissing the Civil Miscellaneous Appeal No.2671 of 2007, as withdrawn, substantial question of law raised is left open. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mvs.

To

The Customs, Excise and Service Tax
Appellate Tribunal,
South Zonal Bench at Chennai.

+1cc to Mrs.R.K.Sekina Reshma, Advocate, S.R.No.32065
+1cc to Mr.K.Vaitheeswaran, Advocate, S.R.No.32294

Civil Miscellaneous Appeal No.2671 of 2007

PUR(CO)
CA(29/06/2016)