IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22/8/2016

C O R A M

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

Civil Miscellaneous Appeal No.3129 of 2009

The Commissioner of Central Excise
Chennai - I Commissionerate
26/1 (Old No.121)
M.G.Road
Chennai 600 034. ... Appellant /Respondent

Vs

M/s.Tablets India Ltd
No.179 T.H.Road
Chennai 600 021. ... Respondent / Appellant

Prayer: Appeal filed under Section 35 G of the Central Excise Act, 1944 against the Miscellaneous Order No.31 of 2009 dated 16/1/2009 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Chennai.

For appellant : Mr.A.P.Srinivas
For respondent : No appearance

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 Miscellaneous Order No.31 of 2009, dated 16/1/2009, 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 is:-

> “1. Whether on the facts and circumstances of the case, the Appellate Tribunal is right in dismissing the Department's Miscellaneous Appeal without considering Rule 57 AD (upto 30/6/2001) of the Central Excise Rules and Rule 6 (2) of

the Cenvat Credit Rules, 2001 (for the subsequent period)?

2. Whether on the facts and circumstances of the case, the Appellate Tribunal is right in allowing the assessee's appeal by relying on the judgment which are not relevant or not applicable to the assessee's case?

3. Whether the Appellate Tribunal was right in dismissing the Department's Miscellaneous Appeal by observing that no error occurred whereas in the Final Order No.109/08 dated 16/1/2009 the Appellate Tribunal held that the assessee reversed the inadmissible CENVAT credit taken, which is not provided under the CENVAT Rules?

4. Whether the Appellate Tribunal is right in holding the procedure followed by the respondent/assessee was in substantial compliance with requirements of Rule 57 AD (2) and Rule 6 (2), when the assessee did not maintain separate accounts or the inputs used in the manufacture of exempted final products and also not paid 8% duty of the value of the final product as prescribed under the CENVAT Rules?"

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.3129 of 2009, as withdrawn, substantial question of law raised is left open. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

mvs.

To

The Registrar,
The Customs, Excise and Service Tax Appellant Tribunal
South Zone Bench, Chennai

+1 CC to M/s. A.P. Srinivas, Sr.No.47878

Civil Miscellaneous Appeal No.3129 of 2009

RSK (CO)
MD : 14/09/2016