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.3469 of 2009

The Commissioner of Central Excise
Customs and Central Excise Commissionarate,
6/7, A.T.D. Street, Race Course Road,
Coimbatore - 641 018. ... Appellant

..Vs..

1. M/s.Sree Narasimha Textiles Ltd.,
Kannampalayam Village, Coimbatore - 641 402.

2. Customs, Excise and Service
Tax Appellate Tribunal,
South Zone Bench, Shastri Bhavan Annexe,
Chennai. ... Respondent

Prayer: Appeal filed under Section 35 G of the Central Excise Act, 1944 against the Misc. Order No.137 of 2009 dated 01.04.2009 passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai Bench.

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

R1 : No.Appearance

R2 : 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 Misc. Order No.137 of 2009 dated 01.04.2009 passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai Bench.

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

"a. Whether or not the CESTAT is correct in exercising its jurisdiction over a case falling under Proviso (a) to Sec.35(B)(1) of the Central Excise Act, 1944?

b. Whether or not the Final Order No.1088/2008 dt. 25.9.2008 of the CESTAT is sustainable when it had been passed five years subsequent to the order passed by the Govt. of India in its Revisional Jurisdiction in terms of Sec.35 EE of the Act, 1944 and which had attained finality?;

c. Whether or not the Impugned Order No.137/2009 dated 01.04.2009 of the CESTAT is sustainable in so far as the CESTAT failed to exercise its power under Section 35(C)(2) of the Central Excise Act, 1944".

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.1,76,866/-, 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 Placing on record the above submission, while dismissing the Civil Miscellaneous Appeal No.3469 of 2009, as withdrawn, substantial questions of law raised, are left open. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ars
TO
Customs, Excise and Service
Tax Appellate Tribunal,
South Zone Bench, Shastri Bhavan Annexe,
Chennai.

Civil Miscellaneous Appeal No.3469 of 2009

SV(CO)
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