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.3665 of 2010

The Commissioner of Central Excise &
Service Tax
No.1 Williams Road
Cantonment
Tiruchirapalli 620 001. ... Appellant/Appellant

Vs

M/s.Tamil Nadu Newsprint and Papers Ltd
Kagithapuram
Karur District 639 136. ... Respondent/Respondent

Prayer: Appeal filed under Section 35 G of the Central Excise Act, 1944 against the Final Order No.721 of 2010 dated 1/7/2010 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Chennai.

For appellant : Mrs.R.K.Sekina Reshma

For respondent : Mr.K.Magesh

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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.721 of 2010, dated 1/7/2010 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:-

"(i). Whether on the facts and circumstances of the case, the Tribunal is right in law in holding that CENVAT credit is admissible on welding electrodes used for repair and maintenance of plant and machinery, and not an input for manufacture of the final product paper?

(ii). Whether on the facts and circumstances of the case, the Tribunal is right in law in holding that the respondent is eligible to avail credit of duty on the welding electrodes despite the fact that they are not parts or components or accessories of Machineries/capital goods used for manufacture of the final product as specified in the CENVAT Credit Rules, 2004?

(iii). Whether on the facts and circumstances of the case, the Tribunal is right in law in relying on the decision in the case of the Commissioner of Central Excise, Tiruchirapalli Vs. M/s.India Cements Ltd., reported [2009 (238) E.L.T 411 (Mad.)] which is already pending in appeal before the Hon'ble Court?"

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 Placing on record the above submission, while dismissing the Civil Miscellaneous Appeal No.3665 of 2010, as withdrawn, substantial questions of law raised are left open. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mvs

To

1.
The Commissioner of Central Excise &
Service Tax
No.1 Williams Road
Cantonment
Tiruchirapalli 620 001.

2.The Commissioner of Central Excise
and Service Tax
No.1 Williams Road Cantonment
Tiruchirapalli-620 001

+1 cc to M/s.R.K.Sekina Reshma Advocate sr.32064
+1 cc to Mr.K.Magesh Advocate sr.32162

Civil Miscellaneous Appeal No.3665 of 2010

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aa30/06/2016