IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2016

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

Civil Miscellaneous Appeal No.462 of 2010

Commissioner of Central Excise
Chennai II Commissionerate,
No.692, MHU Complex,
Anna Salai, Nandanam,
Chennai 600 035. .. Appellant

Vs.

1. M/s. Sharon Veneers (P) Ltd.,
45th Km. Stone,
GNT Road,
Gummidipoondi 601 201.

2. The Customs, Excise and Service
Tax Appellate Tribunal, South Zone Bench,
Shastri Bhavan Annexe,
1st Floor, No.26, Haddows Road,
Chennai - 600 006. .. Respondents

Civil Miscellaneous Appeal filed under Section 35G of Central Excise Act, 1944, against the Final Order No.1179/2009, dated 07.09.2009, passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant : Mr.A.P.Srinivas, Standing Counsel
For Respondents : Notice Not Ready.

JUDGMENT

(Delivered by NOOTY.RAMAMOHANA RAO,J)

This appeal is directed by the Commissioner of Central Excise, Chennai, against the Final Order No.1179/2009, dated 07.09.2009, passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

2. This Appeal was admitted on 23.02.2010, formulating the following two substantial questions of law for consideration:-

"(i) Whether on the facts and circumstances of the case, the Tribunal ought not to have seen Rule (1)(e) of Cenvat Credit Rules, 2004 was amended vide Notification No.28/2005 dated 07.05.2005 effective from 16.06.2005 wherein TR-6 challan is prescribed document for availing Cenvat Credit and prior to 16.06.2005, it was not a prescribed document?

(ii) Whether the Tribunal ought not to have seen the credit taken from these challans are irregular availment of credit inasmuch as TR6/GAR-7 challans evidencing payment of service tax by the person liable to pay service tax under Section 2(1)(b)(v) of Service Tax Rule, 1994 is eligible for availing Cenvat Credit under Notification No.28/2005 CE (NT) dated 07.06.2005 only with effect from 16.06.2005 and not prior to that?"

3. Mr. A.P.Srinivas, learned Standing Counsel for the Department seeks leave of the Court to withdraw this appeal as he was instructed to do so pursuant to the Instructions issued by the Ministry of Finance Department of of Revenue Central Board of Excise & Customs in F.No.390/Misc./163/2010-JC, dated 14.12.2015. Endorsement was also made on the reverse of the Grounds of Appeal.

4. Though substantial questions of law do arise for consideration, however, the value involved in the appeal is far-too insignificant particularly viewed in the backdrop of the Instructions issued by the Ministry of Finance Department of of Revenue Central Board of Excise & Customs, in F.No.390/Misc./163/2010-JC, dated 14.12.2015, in order to reduce the Government litigation providing monetary limits for filing appeals by the Department before the CESTAT/High Courts and Supreme Court.

5. Accordingly, an appeal shall not be filed before the High Court in case where the monetary limits is less than Rs.15,00,000/-. In the instant case, tax effect is less than the limit of Rs.15 lakhs prescribed in the said Instructions and hence, this appeal stands dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Customs Excise Service Tax Appellant Tribunal,
South Zone Bench,
Shastri Bhavan Annexe,
1st Floor No.26,Haddows Road,
Chennai-600 006

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.69561

rp
cg(30/12/2016)

C.M.A.No.462 of 2010