IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

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

Civil Miscellaneous Appeal Nos.474 and 475 of 2010

Commissioner of Central Excise
Large Taxpayer Unit,
1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar Western Extension,
Chennai 600 101. .. Appellant

Vs.

M/s. Brakes India Ltd.
Padi, Chennai 600 050. .. Respondent in TCA 474/2010

M/s. India Japan Lighting Pvt. Ltd.,
No.1, Puduchatram (via) Tirumazhisai,
Tiruvallur High Road, Chennai-602 107. .. Respondent in TCA 475/2010

Civil Miscellaneous Appeals filed under Section 35G of Central Excise Act, 1944, against the Final Order No.1397/2009, dated 07.10.2009 and Final Order No.947/2009, dated 10.08.2009, passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellants : Mr.A.P.Srinivas, Standing Counsel
For Respondent : Mr.R.Raghavan

COMMON JUDGMENT

(Judgment of the Court was delivered by NOOTY.RAMAMOHANA RAO,J)

Both these appeals are directed by the Commissioner of Central Excise, Large Taxpayer Unit, Chennai, against the Final Order No.1397/2009, dated 07.10.2009 and Final Order No.947/2009, dated 10.08.2009, passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chenna Bench, Chennai.

2. Both the Tax Case Appeals were admitted by the Division Bench of this Court on 24.02.2010, formulating the following substantial question of law for consideration:-

> *Whether the Tribunal was right in interpreting the term 'input service' to include outward transportation beyond the place of removal especially when the High Court of Punjab and Haryana in the case of Ambuja Cements reported in 2009 (14) STR 3 (P&H) has upheld the Board's Circular No.97/8/2007 dated 23.08.2007 clarifying that the eligibility for credit service tax paid on 'outward transportation' would depend on the place of removal?*

3. Mr. A.P.Srinivas, learned Standing Counsel for the

Department seeks leave of the Court to withdraw both the appeals as he was instructed to do so. Endorsement was also made on the reverse of the docket.

4. Accordingly, both the appeals stand dismissed as withdrawn. No costs.

(N.R.R.J) (A.S.M.J)
11.11. 2016

Index: Yes
Internet: Yes
gr.

NOOTY.RAMAMOHANA RAO,J

and
DR.ANITA SUMANTH, J

gr.

C.M.A.Nos.474 and 475 of 2010

11.11.2016