

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11/7/2016

C O R A M

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.3032 of 2006

The Commissioner of Central Excise
Chennai.

... Appellant/Appellant

Vs

M/s.Shri Krishna Metals
No.3 Sadaiyankuppam Road
Manali
Chennai 600 103.

... Respondent/Respondent

Prayer: Appeal filed under Section 35 G of the Central Excise Act, 1944 against the Final Order No.1498 of 2005, dated 24.11.2005 on the file of Customs Excise and Service Tax Appeals Tribunal, South Zonal Bench at Chennai which was served upon the Appellant on 01.12.2005, confirming the Order in Appeal No.41 of 2004(M-I) dated 27.02.2004 passed by the Commissioner of Central Excise (Appeals), Chennai.

For appellant : Mr.A.P.Srinivas
Senior Standing Counsel

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 Final Order No.1498 of 2005 dated 24/11/2005 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Chennai.

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

"1. Whether the Commissioner (Appeals) and the Appellate Tribunal are right in reducing the penalty from

Rs.12,738/- Rs.5,000/- when the said penalty was imposed in accordance with the Rule 96 ZP(3) of Central Excise Rules, 1944, when the respondent has committed default in the payment of duty?

2. Whether the Commissioner (Appeals) and the Appellate Tribunal have not improperly exercised their judicial discretion in reducing the penalty?"

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 Placing on record the above submission, while dismissing the Civil Miscellaneous Appeal No.3032 of 2006, as withdrawn, substantial questions of law raised are left open. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. Customs, Excise and Service Tax Appellate Tribunal
South Zone Bench
Shastri Bhavan Annexe
I Floor, 26 Haddows Road
Chennai 600 006.

2. The Commissioner of Central Excise,
Chennai.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.38740

Civil Miscellaneous Appeal No.3032 of 2006

SR(CO)
CA(29/07/2016)