IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.08.2016

Coram:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.A. No.1008 of 2016
and
C.M.P. No.13112 of 2016

M/s.Sree Daksha Property Developers,
No.1, Gandhi Layout,
1st Floor, Sree Veeras Towers,
Maruthamalai Road,
Vadavalli,
Coimbatore - 641 046
(Rep.by R.Mohan, Managing Partner and
Authorised Signatory) .. Appellant/Petitioner

vs.

The Commissioner of Central Excise,
6/7, ATD Street, Race Course,
Coimbatore - 641 018. .. Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 07.06.2016 made in W.P.No.14737 of 2016.

Writ Petition filed Under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records comprised in Order C.No.V/ CRCS/15/ 137/2014-ST Adj. dated 14.3.2016 on the file of the respondent quash the same.



For appellant : Ms.Naveena. D
for M/s.S.Durairaj

For respondent : Mr.A.P.Srinivas,
Standing Counsel for
Central Excise

JUDGMENT

[Judgment of the Court was delivered by S.MANIKUMAR, J]

Learned counsel for the appellant seeks permission to withdraw the Writ Appeal. She has also made an endorsement to that effect. She has also submitted that, within a period of two weeks from today, statutory appeal will be filed against the impugned order and the time spent in the Writ Appeal may be directed to be excluded while computing the limitation by the CESTAT, Madras.

2. Recoding the above submissions, Writ Appeal is dismissed. No order as to costs. Connected Civil Miscellaneous Petition is closed.

3. A perusal of the order dated 7.6.2016 made in W.P.No.14737 of 2016 impugned before us shows us that liberty has already been given to the appellant to file an Appeal before the CESTAT and in the event of appellant exercising such option, while computing limitation, CESTAT has been directed to consider exclusion of time spent in the Writ Proceedings.

4. Inasmuch as the learned counsel for the appellant is withdrawing the instant Writ Appeal and seeks to challenge the order dated 14.3.2016 passed under Section 74 of the Finance Act 1994, we deem it fit to state that the time consumed in pursuing this Writ Appeal be excluded by CESTAT, Madras, when the statutory appeal under Section 86 of the said Act is filed by the appellant. Such an appeal shall be filed by the appellant within a period of two weeks from today.



Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Commissioner of Central Excise,
6/7, ATD Street, Race Course,
Coimbatore - 641 018.

+1cc to Mr.S.Durairaj, Advocate Sr.48221

W.A.No.1008 OF 2016
AND
CMP No.13112 of 2016

skv[co]
srg 26/06/2016