HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE MRS JUSTICE ANIS

Central Excise Appeal No.41 of 2016

Judgment: (per V.Ramasubramanian, J.)

As against the order of the Commissioner (Appeals), setting aside the penalty but upholding the adjudication on merits, the Department filed an appeal before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), South Zonal Bench, Bangalore. The CESTAT dismissed the appeal forcing the Revenue to come up with the present appeal under Section 35G of the Central Excise Act, 1944.

2. Heard Mr. B.Narasimha Sarma, learned counsel for the appellant.

3. The Revenue has raised the following question of law:

> Whether the Hon'ble CESTAT, Bangalore is justified in rejecting appeal without going into merits and simply following the Commissioner (Appeals) order? Is it not contrary to the settled law?

4. But Section 80 of the Finance Act, 1994 makes it clear that no penalty under Sections 76 and 77 need to be levied, in cases where there is reasonable cause for the failure of the assessee to comply with the provisions. Once the Commissioner (Appeals) as well as the CESTAT were satisfied that there was reasonable cause on the facts and circumstances of the case, the arrival of such a subjective satisfaction on the part of the two authorities, does not give rise to a substantial question of law for our interference

under Section 35G of the Central Excise Act, 1944. Hence, the appeal is dismissed. The miscellaneous petitions, if any, pending in this appeal shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

ANIS, J.

21st September, 2016.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE MRS JUSTICE ANIS

Central Excise Appeal No.41 of 2016
(per VRS, J.)

21st September, 2016.
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