IN THE HIGH COURT OF JUDICATURE AT MADRAS

9.2.2017

Coram:

The Hon'ble Mr.Justice HULUVADI G.RAMESH
and
The Hon'ble Dr. Justice ANITA SUMANTH

C.M.A.No.2387 of 2011

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

Versus

M/s.Astra Tel,
(A Division of Turbo Energy Ltd.)
Pulivalam, Banavaram P.O.
rep. by their Registered Office at
67, Chamiers Road,
Chennai 600 028. Respondent/Appellant

Prayer: Civil Miscellaneous Appeal filed under Section 35G of Central Excise Act, 1944 against the Final Order No.10/2011 dated 5.1.2011 in Appeal No.E/581/2010 on the file of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), South Zonal Bench, Chennai 600 006.

For Appellant : Mr.A.P.Srinivas
For Respondent : Mr.Masoor for Mr.S.Murugappan

JUDGMENT

This Civil Miscellaneous Appeal is filed against the order of the Customs, Excise and Service Tax Appellate Tribunal in Final Order No. 10/2011 dated 5.1.2011 in Appeal No.E/581/2010.

2. The following substantial questions of law are raised :

"1. Whether the Tribunal was right in including the Business Auxillary Services comprising Storage and delivery services performed abroad in the scope of the term 'input service' defined in Rule 2(1) of the CENVAT Credit Rules, 2004 without examining and entering any finding of fact as to whether such services were used "upto the place of removal"?

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2. Whether the judgments relied on by the CESTAT are applicable to the facts of the case?"

3. The learned counsel brought to our notice, Circular in C.No.I/10/10/2016 Legal dated 21.3.2016, wherein, it is stated that the Central Board of Excise and Customs, New Delhi, vide Letter F.No.390/Misc./163/2010 J.C. dated 17.12.2015, has fixed the monetary ceiling for filing appeals before the High Court at Rs.15,00,000/-. Learned counsel for the Department, thus, seeks to withdraw the appeal.

4. In view of the above, without going into the merits and preserving the questions of law for adjudication in an appropriate case, this Civil Miscellaneous Appeal is dismissed as withdrawn. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The Customs Excise and service Tax
Appellate Tribunal (CEST AT)
South Zonal Bench,
Chennai 600 006.

2.The Section Officer, V.R. Section,
High Court, Madras.

+1cc to Mr.S. Murugappan, Advocate Sr. 8820/17

+1cc to Mr.A.P. Srinivas Advocate SR. 8442/17

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SR(CO)
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