IN THE HIGH COURT OF JUDICATURE AT MADRAS

16.2.2017

Coram:

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

C.M.A.No.2692 of 2015

Commissioner of Central Excise
Chennai III Commissionerate
No.261/Mahatma Gandhi Salai,
Nungambakkam, Chennai 600 034. Appellant

Versus

1. TVS Motor Company Limited,
   Post Box No.4, Harita, Hosur 635 109.

2. Customs, Excise & Service Tax
   Appellate Tribunal,
   No.26, Shastri Bhavan Annexe Building,
   Haddows Road, Chennai 600 006. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 35G of Central Excise Act, 1944 against the Final Order No.40548/2015 dated 8.5.2015 on the file of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), South Zonal Bench, Chennai 600 006.

For Appellant : Mrs.R.Hemalatha

For R1 : No appearance.

JUDGMENT

This Civil Miscellaneous Appeal is filed against the order of the Customs, Excise and Service Tax Appellate Tribunal in Final Order No.40548/2015 dated 8.5.2015.

2. The following substantial questions of law is raised :

> "Whether the CESTAT is right in allowing the balance of CENVAT credit in the subsequent year when the said goods were not in the possession and use of the manufacturer of final products in such subsequent year clearly contravening the eligibility conditions laid down in Rule 57AC(2)(b) of Central Excise (Second Amendment (Amendment) Rules, 2000 which was in effect during the material period?"

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the questions of law for adjudication in an appropriate case, this Civil Miscellaneous Appeal is dismissed as withdrawn.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

/true copy/

Sub Asst. Registrar

ssk.

To
1.The Assistant Registrar,
Customs, Excise & Service Tax
Appellate Tribunal,
No.26, Shastri Bhavan Annexe Building,
Haddows Road, Chennai 600 006.

2.The Section Officer,VR Section,High Court,Madras.

+1cc to M/s.R.Hemalatha,Advocate sr.10033

C.M.A.No.2692 of 2015

ss(co)
ss(13/3/2017)