IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 6.1.2017

C O R A M

THE HON'BLE MR. JUSTICE HULUVADI G. RAMESH
AND
THE HON'BLE Dr. JUSTICE ANITA SUMANTH

Civil Miscellaneous Appeal Nos.2777 and 2778 of 2016
and
C.M.P.Nos.20114 and 20115 of 2016

Sundaram Fasteners Limited,
Padi, Chennai 600 050. ..Appellant/Appellant in both appeal

Vs

1. Commissioner of Central Excise,
Chennai II Commissionerate,
692, M.H.U. Complex,
Anna Salai, Nandanam,
Chennai 600 035.

2. Customs Excise and Service Tax Appellate Tribunal,
Sastri Bhavan, Annexe Building,
I Floor, 26 Haddows Road,
Chennai 600 006. ..Respondents/Respondent in both appeals

Prayer:- Civil Miscellaneous Appeals filed under Section 35G of the Central Excise Act, 1994, against the Final Order Nos.40316 and 40317 of 2013 of 2013 dated 22.4.2013 on the file of the CESTAT, Chennai.

For Appellant : Mr.R.Raghavan
For R1 : Mr.R.Raghavan, Standing Counsel

C O M M O N J U D G M E N T
(Judgment of the Court was delivered by Dr.Anita Sumanth, J.,)

These appeals are filed by the assessee challenging the final order dated 22.4.2013 passed by the Customs Excise & Service Tax Appellate Tribunal (CESTAT) read with Miscellaneous Order No.41297 and 41298 of 2014 dated 18.6.2014 passed while disposing of the Rectification of Mistake Application filed against the final order.

2. The contention in brief is to the effect that pursuant to the remand of the matter of the assessee by the CESTAT, as early as on 26.8.2013, directing the Department to furnish adequate opportunity to the appellant and conclude the

adjudication proceedings de novo, the appellant has been repeatedly seeking information from the Department that has not been coming forth.

3. We have heard the learned counsel appearing for the appellant and Mr.R.Raghavan, learned Standing Counsel for the Department.

4. We believe that the present appeals are premature. Admittedly, the CESTAT, after taking into consideration the contention of both the parties, passed its order dated 26.8.2013, in the following terms:-

> "Accordingly, the matters are remanded back to the Commissioner for de-novo adjudication and the appellant is directed to furnish reconciliation statement with GRN and any other documents in both the appeals in respect of the amount of duty confirmed in the impugned order. Thereafter, the adjudicating authority shall pass order in accordance with law. The adjudicating authority shall give proper opportunity of hearing before passing de-novo adjudication order. Both the appeals are allowed by way of remand. Stay applications are disposed of."

5. The CESTAT has virtually granted a cart blanche to the appellant to produce all the materials required whatsoever and the Department has been directed to furnish adequate opportunity to the appellant prior to completion of the adjudication proceedings. This order of the CESTAT attained finality. The order of the CESTAT in the petition for rectification of mistake is on similar lines of earlier order. In the circumstances, we confirm the finding of the CESTAT in view of the direction given by the CESTAT to the Department that adequate opportunity has to be furnished to the appellant and the further direction to the appellant to furnish all the materials required to decide the necessary issue prior to completion of the adjudication. The parties to exchange materials as would be relevant for the completion of the proceedings. The civil miscellaneous appeals are disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Commissioner of Central Excise,
   Chennai II Commissionerate,
   692, M.H.U. Complex,
   Anna Salai, Nandanam,
   Chennai 600 035.

2. Customs Excise and Service
   Tax Appellate Tribunal,
   Sastri Bhavan, Annexe Building,
   I Floor, 26 Haddows Road,
   Chennai 600 006.

+ 2 ccs to Mr.R. Raghuvan, Advocate SR.2396
+ 1 cc to Mr.A.P.Srinivas, Advocate Sr.2422

C.M.A.Nos.2777 & 2778 of 2016

EV(CO)
EU 18.4.17