IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:20.01.2017

Coram:

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

C.M.A.No.3592 of 2011

The Commissioner of Central Excise,
No.1, Foulks Compound,
Anaimedu,
Salem 636 001 .. Appellant/Respondent

Versus

The Senior Depot Manager,
M/s.Indian Oil Corporation,
Sankari Depot,
Narayanappa Chavadi,
Sankari Durg Rly. Station,
Salem 637 302 .. Respondent/Applicant

Prayer: Civil Miscellaneous Appeal filed under Section 35G of Central Excise Act, 1944 against the Final Order 847/2010 dated 03.08.2010 on the file of the Customs Excise and Service Tax Appellate Tribunal, South Regional Bench, Chennai-6.

For Appellant .. Mr. V. Sundareswaran

For Respondent .. Mr.S. Muthuvenkataraman

JUDGMENT

(Judgment of this Court was delivered by DR. ANITA SUMANTH, J.)

This Civil Miscellaneous Appeal filed by the Central Excise Department calls in question the correctness of an order passed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), dated 3.8.2010. The appeal has been admitted on 07.12.2011 for consideration on the following substantial question of law;

"Whether for the purpose of invoking the provisions of Section 11D one need not be a manufacturer of goods but it is suffice if he is liable to pay duty of excise. The refinery / depots / installations of Oil Companies are extended arms of the respective companies and have to be treated as a single entity?"

2. Though a substantial question of law relating to the interpretation of the provisions of section 11D of the Central Excise Act 1944 has been raised, we deem it fit to dispose of the appeal on the basis of the statement of the learned counsel appearing for the assessee to the effect that the factum of collection and remittance of the amounts to the Government Treasury has attained finality and no action has either been taken or will be taken with respect to a claim in regard to the same.

3. In this view of the matter, the parties agree that nothing further remains to be adjudicated upon. The appeal is disposed of, leaving the substantial question of law open for decision in an appropriate case. No costs. Consequently, connected M.P.No.1 of 2011 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrs
To

The Customs Excise and Service Tax
Appellate Tribunal, South Regional Bench,
Chennai-6.

+1 cc to M/s.N.Sundareswaran Advocate sr 4374/17

C.M.A.No.3592 of 2011

cnr(co)
aa09/02/2017