IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

C.M.A.No.875 of 2017
and C.M.P.No.4330 of 2017

Global Calcium Pvt. Ltd.,
represented by its Director-Operations,
Mr.Sathish Hebbar R
No.125 & 126, SIPCOT Industrial Complex,
Hosur-635 126.
Tamil Nadu. ... Appellant/Appellant

Vs.

The Commissioner of Customs,
Chennai IV Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai-600 001. ... Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 130 of the Customs Act, 1962, against the Final Order No.42370/2016, dated 29.11.2016, in Appeal No.C/41611/2016-SM.

For Appellant : Mr.Derrick Sam

For Respondent : Mr.Pramod Kumar Chopda
Standing Counsel

J U D G M E N T

(Judgment of the Court was delivered by RAJIV SHAKDHER,J.)

1. After some arguments, Mr.Derrick Sam, seeks to withdraw the captioned appeal. Learned counsel, however, says that he has only one apprehension, which is, that the Adjudicating Authority may subject the claim for duty drawback to the time limit of three months provided in the Circular No.36/2010-Cus., dated 23.09.2010 (in short, “2010 Circular”).

2. According to us, this apprehension is misplaced, as in paragraph 6 of the order, the Tribunal has, clearly, stated that "the time bar provision will not apply in this matter".

3. Needless to say, since, the Revenue has not come up by way of cross objection, they cannot raise any cavil about limitation of three months prescribed in the Circular.

4. We may also indicate that neither Rule 12(1)(a) of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, nor Section 149 of the Customs Act, 1962, (in short, "the Act") prescribes, any time limit for processing the claim of duty drawback.

4.1. Furthermore, Mr.Chopda, has not been able to show any other provision in the Act or, the Rules framed thereunder, which provide for a time limit for processing the claim lodged for duty drawback.

5. As indicated above, the Tribunal has not accepted the stand of the Revenue that the Assessee's claim can be subject to time limit, as provided in the 2010 Circular.

6. Accordingly, the appeal is dismissed as withdrawn. Resultantly, pending application shall stand closed. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gg

The Commissioner of Customs,
Chennai IV Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

+1cc to Mr.Pramod Kumar Chopda, Advocate, S.R.No.45250
+1cc to Mr.Hari Radhakrishnan, Advocate, S.R.No.46043

C.M.A.No.875 of 2017

GJII(CO)
CS/18/07/17