IN THE HIGH COURT OF JUDICATURE AT MADRAS

25.01.2017

Coram:

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

C.M.A. No.1713 of 2009

The Commissioner of Central Excise,
Office of the Commissioner
of Central Excise,
No.1, Williams Road,
Tiruchirapalli-620 001. .. Appellant

Versus

1.M/s.Tamil Nadu Newsprint & Papers ltd.,
Kagithapuram, Karur-639 136.

2.Customs Excise and Service
Tax Appellate Tribunal,
South Zonal Bench,
Sastri Bhawan Annexe-1,
1st Floor, 26, Haddows Road,
Chennai-600 006. .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 35G of the Central Excise Act, 1944 against the Final Order No.1432/2008 dated 15.12.2008 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant .. Mr.A.P.Srinivas, CGSC
For Respondents .. Mr.Mohammed Shaffiq for R1
R2 Tribunal

JUDGMENT

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

This Civil Miscellaneous Appeal is filed by the Department calling in question the correctness of the order passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, dated 15.12.2008 in Final Order No.143/2008 and has been admitted on 05.08.2009 for consideration of the following substantial question of law:

"Whether CENVAT credit of duty paid on furnace oil, which is used as fuel in the exempted final product, viz., newsprint can be allowed when the Rule 6(1) of the CENVAT Credit Rules 2002/2004 specifically bars allowing such credit on such quantity of inputs used in the manufacture of exempted goods except in the circumstances mentioned in sub rule (2) of Rule 6?"

2. Circular instruction issued by the Central Board of Excise and Customs, New Delhi in F.No.390/Misc./163/2010 J.C. dated 17.12.2015 stipulates that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.15 lakhs. In the instant case, the tax effect is less than the monetary limit imposed and the appeal is, hence, dismissed as not pressed, preserving the substantial question of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vga

To

Customs Excise and Service
Tax Appellate Tribunal,
South Zonal Bench,
Sastri Bhawan Annexe-1,
1st Floor, 26, Haddows Road,
Chennai-600 006.

+ 1 cc to Mr.A.P. Srinivas, Senior Standing Counsel,
Advocate 5333

C.M.A.No.1713 of 2009

MV(CO)

Eu 20.2.17