

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6/10/2017

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE R.SURESH KUMAR

Civil Miscellaneous Appeal No.1939 of 2009

The Commissioner of Central Excise
Chennai IV Commissionerate
MHU Complex
No.692 Anna Salai
Nandanam
Chennai 600 035.

... Appellant

Vs

1. M/s. FAL Industries
Facit Avenue
Perungudi
Chennai 600 096.

2. Customs Excise & Service Tax
Appellate Tribunal
South Zonal Bench
Shastri Bhawan Annexe
First Floor, No.26 Haddows Road
Chennai 600 006.
(R-2 given up)

... Respondents

Civil Miscellaneous Appeal filed under Section 35 G of the Central Excise Act, 1944 to set aside the Final Order No.23/2009 dated 1/1/2009 passed by the second respondent Tribunal.

For Petitioner ... Mrs.R.Hemalatha

For respondents ... Mr.A.P.Srinivas for R.2

J U D G M E N T
(Judgment of the Court was made by S.MANIKUMAR, J)

This Appeal has been filed against the Final Order No.23 of 2009, dated 1/1/2009, passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Chennai.

2. The substantial question of law raised in the instant appeal is:-

"Whether on facts and circumstances of the case, the second respondent Tribunal is correct in holding that there is no provision in the statute for enabling recovery of interest in the case of delay in reversal/payment of duty relatable to inputs removed as such, when there is express provisions in Section 11 AB of Central Excise Act, 1944 read with Rule 12 of CENVAT Credit Rules, 2002, providing for recovery of interest when the conditions specified therein are satisfied?"

3. On this day, when the matter came up for hearing, Mrs.R.Hemalatha, learned Standing Counsel appearing for the Department submitted that on the basis of the instructions given in Circular No.I/10/10/2016 Legal, dated 21/3/2016, appellant department has instructed her to withdraw the appeal.

4. Placing on record the above submission, while dismissing the Civil Miscellaneous Appeal No.1939 of 2009, as withdrawn, substantial question of law raised is left open. No costs.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

mvs.

To

1. Customs Excise & Service Tax Appellate Tribunal
South Zonal Bench
Shastri Bhawan Annexe
First Floor, No.26 Haddows Road
Chennai 600 006.

2. The Commissioner of Central Excise
Chennai IV Commissionerate
MHU Complex
No.692 Anna Salai
Nandanam
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+1 CC to Ms. R. Hemalatha, Advocate sr 72545.

C.M.A.No.1939 of 2009

VSN(CO)
sp(01/11/2017)