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.2025 of 2007

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

Versus

1.Customs Excise and Service
Tax Appellate Tribunal,
Sastri Bhawan Annexe,
No.26, Haddows Road,
Chennai-600 006.

2.M/s.Kothari Sugars and Chemicals Ltd.,
Kattur, Tiruchirapalli District. .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 35G of the Central Excise Act, 1944 against the Final Order No.32/2007 dated 05.01.2007 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant .. Mr.A.P.Srinivas, CGSC
For Respondents.. R1 Tribunal
Mr.K.Vaitheeswaran for R2

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 05.01.2007 in Final Order No.32/2007 and has been admitted on 31.08.2007 for consideration of the following substantial questions of law:

"1.When the Rule 6(1) of Cenvat Credit Rules 2002 specifically bars allowing of credit on such quantity of inputs used in the manufacture of exempted goods and

2.When sub-rule 2 of Rule 6 of Cenvat Credit Rules, 2002 specifically excludes inputs used as fuel such as furnace oil from the concession of allowing Cenvat Credit extended to other inputs used in dutiable and exempted final products subject to observing certain procedures set out therein?"

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,
Sastri Bhawan Annexe,
No.26, Haddows Road,
Chennai-600 006.

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MV(CO)

Eu 17.2.17