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.2170 of 2010

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

Versus

M/s.Tamil Nadu Newsprint and
Papers Ltd.,
Kagithapuram, Karur-639 136. .. Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 35G of the Central Excise Act, 1944 against the Final Order No.199/2008 dated 05.03.2008 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant .. Mr.S.Arunkumar
For Respondent .. Mr.Mohammed Shaffiq
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 05.03.2008 in Final Order No.199/2008 and has been admitted on 27.08.2010 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 newsprint, can be allowed when Rule 6(1) of CENVAT Credit Rules 2002/2004 specifically bars allowing of 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 and the said sub-rule (2) of Rule 6 specifically excludes inputs used as fuel (furnace oil in this case) from the scope of is operation meant for the other common inputs used in dutiable and exempted final products?"

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

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

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MV(CO)
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