IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23-02-2017

CORAM:

THE HONOURABLE THE ACTING CHIEF JUSTICE
AND
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

C.M.A.Nos.314 of 2008 and 1598 of 2010

The Commissioner of Central Excise
6/7, A.T.D. Street, Race Course Road
Coimbatore ... Appellant/Respondent in both appeal

Vs.

1.M/s.Roots Cast (P) Ltd.,U-II R1 in CMA 314/2008
RKG Industrial Estate
Ganapathy
Coimbatore - 641 006
M/S. Vijayalakshmi Textiles,
West Sambala Thottam,
Kannampalayam, Sulur, Coimbatore. Respondent in CMA. 1598/2010

2.The Customs, Excise and Service tax Appellate Tribunal R2 in CMA 314/2008
South Zonal Bench, Shastri Bhavan Annex
26, Haddows Road
Chennai - 600 006

Civil Miscellaneous Appeals under new Section 35G of the Central Excise Act, 1944 against the CESTAT's final order No.730/07 dated 15-06-2007 passed by the Honourable Customs, Excise and Service Tax Appellate Tribunal, South Zone Bench, Chennai.

CMA. 1598/2010:- Filed Under Section 35G of the Central Excise Act 1944 against the final Order dated 09/10/2009 in 1418/2009 in Appeal No E/271/2008 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai received on 03/11/2009.

For appellant	::	Mr. K.S. Ramasamy
For respondents	::	No appearance for R1 R2 Tribunal

JUDGMENT

(HULUVADI G. RAMESH,J.)

These civil miscellaneous appeals are filed against the order of Customs, Excise and Service Tax Appellate Tribunal in final order No.530/07 dated 15-06-2007 passed by the Honourable Customs, Excise and Service Tax Appellate Tribunal, South Zone Bench, Chennai.

2. The civil miscellaneous appeals are admitted on the following substantial question of law :

> "1. Whether the Tribunal was correct in holding that there is nothing in the Rules, which debars the appellant from availing depreciation on the balance 50% of the duty which is not availed as CENVAT credit, when conditions for availing Cenvat credit restricts such availment to 50% of the duty paid on Capital goods in the same financial year?"

3. The learned counsel bring to our notice, Circular in C.No.I/10/10/2016 Legal dated 21-03-2016, wherein it is stated that the Central Board of Excise and Customs, New Delhi vide letter F.No.390/Misc./163/2010 J.C. dated 17-12-2015 has fixed the monetary ceiling for filing appeals before the High Court at Rs.15,00,000/-. Learned counsel for the Department thus seeks to withdraw the appeals.

4. In view of the above, without going into the merits and preserving the question of law for adjudication in an appropriate case, these civil miscellaneous appeals are dismissed as withdrawn. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Commissioner of Central Excise
Chennai II Commissionerate
No.692, MHU Complex, Anna Salai
Nandanam, Chennai - 600 035

2.The Commissioner of Central Excise, 6/7, A.T.D. Street,
Race Course Road, Coimbatore.

3.The Customs, Excise and Service
tax Appellate Tribunal
South Zone Bench, Shastri Bhavan Annex
1st Floor, No.26, Haddows Road
Chennai - 600 006

+1cc to Mr.K.S. Ramasamy, Advocate Sr. 11846

+1cc to Mr. K. Jayachandran, Advocate Sr. 11897

+1cc to Mr. K.S. Ramasamy, Advocate Sr. 11847

C.M.A.Nos.314 of 2008 and 1598 of 2010

EV(CO)
VR(20/03/2017)