

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23-02-2017

CORAM:

THE HONOURABLE MR.HULUVADI GANGADHARAPPA RAMESH, THE ACTING
CHIEF JUSTICE

AND

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

C.M.A.No.439 of 2010

The Commissioner of Central Excise
Coimbatore

... Appellant

Vs.

1. Amaravathi Co-operative Sugar Mills Ltd.
Krishnapuram, Udumalpet Taluk
Coimbatore District

2. Customs, Excise and Service
tax Appellate Tribunal
South Zonal Bench, Shastri Bhavan Annex
26, Haddows Road
Chennai - 600 006

.. Respondents

Civil Miscellaneous Appeals under new Section 35G of the Central Excise Act, 1944 against the CESTAT's Final order No.1087 of 2009 dated 25-08-2009 in Appeal No.E/441/09 on the file of the Honourable Customs, Excise and Service Tax Appellate Tribunal, South Zone Bench, Chennai received on 11-09-2009.

For appellant :: Mr. K.S. Ramasamy

For respondents:: No appearance for R1
R2 Tribunal

JUDGMENT

(HULUVADI G. RAMESH,J.)

The civil miscellaneous appeal is filed against the order of Customs, Excise and Service Tax Appellate Tribunal in Final order No.1087 of 2009 dated 25-08-2009 in Appeal No.E/441/09 on the file of the Honourable Customs, Excise and Service Tax Appellate Tribunal, South Zone Bench, Chennai received on 11-09-2009.

2. The following substantial question of law is raised in the civil miscellaneous appeal:

"(i) Whether the Tribunal was correct in passing orders relying on its own Final Order No. 606/2002 dated 24-05-2002 when the Hon'ble High

Court vide its order dated 07-03-2005 had listed out the questions of law raised by the department against the very same Final Order directing the Hon'ble Tribunal to state a case and refer the question of law for the opinion of the Court?"

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 appeal.

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preserving the question of law for adjudication in an appropriate case, the civil miscellaneous appeal is dismissed as withdrawn.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

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

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

+1 cc to Mr.K.S.Ramasamy,advocate,sr.11849.

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