HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE MS. JUSTICE J.UMA DEVI

C.E.A. No.42 of 2010

ORDER: (per Hon'ble Sri Justice V.Ramasubramanian)

The Revenue has come up with the above appeal raising the following substantial questions of law:

> a) Whether Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Bangalore, is justified in relying on judgment of Rajastan High Court reported in AK Spintex Ltd when facts are different in that case.
>
> b) Whether Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Bangalore, can grant the relief of refund by ignoring the presumption of passing of incidence of duty under Section 12B of Central Excise Act, 1944.
>
> c) Whether Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Bangalore, can grant refund without applying the principle of unjust enrichment by ignoring judgment of Apex Court in Mafatlal Industries case law (1997 (89) ELT 247 (SC)) and Sahakari Khad Udyog Mandai Ltd., case law (2005 (181) ELT 328 (SC).

2. Mr.M.V.J.K.Kumar, learned Senior Standing Counsel for Central Excise, appearing for the appellant, submitted that

these questions of law are already answered against the Revenue in a batch of appeals in C.E.A.No.95 of 2010, by a judgment of this Court, dated 20.08.2010. Therefore, following the same, this appeal is also dismissed.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand dismissed. No order as to costs.

V.RAMASUBRAMANIAN, J

J.UMA DEVI, J

09.02.2017
Gsn.