HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE T.AMARNATH GOUD

CEA.No.221 of 2017

Date:08.12.2017

Between:

The Principal Commissioner of Customs and
Central Tax, Hyderabad.

.....Appellant

And:

M/s Prasad Firm Laboratories Pvt Ltd.,
Hyderabad.

.....Respondent

Counsel for the appellant: Mr. B.Narasimha Sarma
Senior Standing Counsel for Central Excise,
Customs and Service Tax

The Court made the following:

JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

The following substantial questions of law have been raised by the Revenue in the appeal filed against Final Order No.A/30124/2017, dated 06.02.2017, in Appeal No.ST/25691/2013 on the file of the Customs, Excise and Service Tax Appellate Tribunal, Regional Bench, Hyderabad (for short 'the CESTAT'):-

> (1) In the facts and circumstances of the case, whether the finding of the Hon'ble Tribunal (CESTAT) that the subject imported goods (lighting equipment, etc) fall within the definition of parts and accessories of Capital goods and the Cenvat Credit availed by the respondent-assessee on the subject import goods is admissible is not illegal, perverse and liable to be set aside in view of facts and reasons mentioned in the order in adjudication?
> (2) Whether the order of the Hon'ble Tribunal (CESTAT) in dismissing the Revenue's appeal without considering and appreciating the Grounds of appeal raised by the Revenue is sustainable in law?"

We have heard Mr. B.Narasimha Sarma, learned Senior Standing Counsel for Customs, Central Excise and Service Tax and perused the record.

The only issue that fell for consideration of and adjudicated by both the appellate *fora* below is whether the goods such as lighting equipments, gloves, tissues, etc., fall under the category "Capital goods". The first appellate authority *i.e.,* Commissioner (Appeals), having regard to the nature of the goods, answered the issue in favour of the respondent-assessee by holding that the said goods fall under the description of "Capital goods". The CESTAT, on re-consideration of the entire issue, concurred with the view of the Commissioner (Appeals).

In our opinion, the findings rendered by both the appellate *fora* below fall in the realm of questions of fact and therefore, no substantial question of law arises for consideration in this appeal.

The appeal is, accordingly, dismissed.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.AMARNATH GOUD

08th December 2017
DR