IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Civil Miscellaneous Appeal Nos.1004 and 1005 of 2018

The Assistant Commissioner of GST & Central Excise,
Salem Commissionerate,
No.1, Foulk's Compound,
Anai Medu, Salem-636 001. ... Appellant in both Appeals

-vs-

M/s.Sakthi Sugars Ltd.,
Sakthi Nagar, Appakudal,
Bhavani Taluk, Erode-628 315. ... Respondent in both Appeals

Civil Miscellaneous Appeals filed under Section 35 G of the Central Excise Act, to set aside the Final Order Nos.41743 and 41782 of 2017 passed in Appeal Nos.ST/174/2008 and ST/460/2009 dated 08.08.2017 respectively passed by the Customs, Excise and Service Tax Appellate Tribunal.

For Appellant : Mrs.Aparna Nandakumar, Senior Standing Counsel

For Respondent : Mr.Akhil Suresh

COMMON JUDGMENT
[Delivered by T.S.Sivagnanam, J.]

These appeals have been filed by the Revenue challenging the common order passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai in Final Order Nos.41743 and 41782 of 2017 dated 08.08.2017.

2.The above appeals have been admitted on 26.04.2018, on the following substantial questions of law:-

> "(i) Whether the Hon'ble CESTAT erred in law holding that the service tax liability on reverse charge relating to legal fees paid to foreign service provider for the period April 2006 to July 2006 was taxable only with effect from 01.09.2009, when the Hon'ble Supreme Court had categorically

held that the liability under Section 66A commenced from 18.04.2006.

(ii) Whether the Hon'ble CESTAT was right in remanding the case back to the adjudicating authority for re-qualification of service tax liability excluding legal fees paid to foreign service provider, when the law declared by the Hon'ble Supreme Court made it crystal clear that the liability commenced from 18.04.2006?

(iii) Whether the Hon'ble CESTAT has erred in law in deleting the mandatory penalty imposable under Section 76, 77 & 78 of the Finance Act, 1994, when there was a deliberate omission and evasion of payment service tax, which was detected pursuant to investigation?

(iv) Whether equal penalty is not imposable for deliberate evasion of payment of service tax when the same was invoked in Show Cause Notice in the remand cases?"

3. The learned Standing Counsel for the appellant has placed before this Court a communication sent by the Deputy Commissioner (Legal), Office of the Commissioner of GST & Central Excise, Salem dated 17.08.2018, stating that on account of the monetary limits in these appeals, which are lesser than the threshold limit fixed by the Board's circular dated 11.7.2018, she seeks permission to withdraw the appeals.

4. The communication dated 17.08.2018 is placed on record and the civil miscellaneous appeals stand dismissed as withdrawn and the substantial questions of law raised in these appeals are left open. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

abr

To

1.The Customs, Excise and Service Tax Appellate Tribunal,
No.26, Sashtri Bhavan Annexe Building,
Hoddows Road, Chennai-600 006.

2.The Commissioner of GST and Central Excise,
Salem Commissionerate No.1, Foulk's Compound,
Annai Medu, Salem-636 001.

+2cc to Mr.Akhil Suresh, Advocate SR.No.60837

C.M.A.Nos.1004 and 1005 of 2018

GMY(26/09/2018)