In the High Court of Judicature at Madras

Dated : 16.08.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Civil Miscellaneous Appeal No.1342 of 2018

The Commissioner of GST and Central Excise,
Puducherry Commissionerate,
Beach Road,
Puducherry-605 001. ... Appellant/Respondent

-vs-

M/s.Siemens Building Technologies Pvt. Ltd.,
R.S.No.16/08, Kurumbapet,
Vazhuthavur Road,
Puducherry-605 009. ... Respondent/Appellant

APPEAL under Section 35G of the Central Excise Act, 1944 against the final order No.40418/2018 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai dated 12.02.2018.

For Appellant : M/s.Aparna Nandakumar,
Standing Counsel

For Respondent : Mr.A.Lawrence
for Mr.Lakshmi Kumaran

JUDGMENT

(Judgment was delivered by T.S.SIVAGNANAM,J)

Heard M/s.Aparna Nandakumar, learned Standing Counsel for the appellant.

2. This appeal has been filed by the Revenue against the final order passed by the Customs, Excise and Service Tax Appellate Tribunal, No.26, Sashtri Bhavan Annexe Building, Haddows Road, Chennai dated 12.02.2018, raising the following substantial questions of law:-

"(i) Whether the decision of the Hon'ble CESTAT in Final Order No.40418/2018 dated 12.02.2018 is correct in equating the non-payment of Service Tax demanded under proviso to Section 73 (1) of Finance Act, 1994 with the provisions under Section 73 (3) of the Finance Act, 1994?

(ii) Whether the CESTAT is right in waiving even the reduced penalty in the first case, when the assessee themselves on their own volition paid the reduced penalty of Rs.31,89,925/- (25% of the duty), which would clearly suggest acceptance of their deliberate mis-statements?

(iii) Whether mandatory penalty under Section 78 can be waived by the CESTAT, when the demand for the extended period under proviso to Section 73 (1) was not set aside by the CESTAT/disputed by the assessee?"

3. The learned Standing Counsel for the appellant has placed before this Court a communication sent by the Assistant Commissioner (Legal), Office of the Commissioner of GST & Central Excise Pondicherry Commissionerate, Puducherry dated 10.08.2018, stating that on account of the monetary limits in this appeal, which are lesser than the threshold fixed by the Board's circular dated 11.7.2018, she seeks permission to withdraw the appeal.

4. The communication dated 10.08.2018 is placed on record and the civil miscellaneous appeal is dismissed as withdrawn and the substantial questions of law raised in this appeal are left open.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

abr
To

1.The Customs, Excise and Service Tax Appellate Tribunal,
No.26, Sashtri Bhavan Annexe Building,
Haddows Road, Chennai.

2.The Commissioner of GST and Central Excise,
Puducherry Commissionerate,
Beach Road, Puducherry-605 001.

+1cc to Mr.Lakshmi Kumaran, Advocate Sr.56521

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sj[co]
srg 10/09/2018