IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12/2/2018

C O R A M

The Honourable Mr.Justice S.Manikumar
a n d
The Honourable Mrs.Justice V.Bhavani Subbaroyan

Civil Miscellaneous Appeal Nos.230 and 231 of 2018
a n d
W.M.P.No.2560 of 2018

The Principal Commissioner of GST & Central Excise
Chennai North Commissionerate
26/1 Uthamar Gandhi Salai
Chennai 600 034. ... Appellant in both the appeals

Vs

BNP Paribas Sundaram Global Securities Operations Pvt Ltd
Menon Eternity
No.165 St. Mary's Road
Alwarpet
Chennai 600 018. ... Respondent in both the appeals

Appeals filed under Section 35 G of the Central Excise Act, to set aside the Final Order Nos.40776 and 40777 of 2017, dated 22/5/2017, 22/5/2017, respectively, passed in Appeal Nos.ST/CO/40889/2016-DB and ST/CO/40890/2016-DB by the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai by the appellant on 28.06.2017.

For appellant ... Ms.Aparna Nandakumar

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C O M M O N J U D G M E N T

(Judgment of the Court was made by S.Manikumar,J)

Civil Miscellaneous Appeals are filed against the common Final order Nos.40776 and 40777 of 2017, dated 22/5/2017, on the file of the Customs Excise and Service Tax Appellate Tribunal, Chennai, on the following substantial questions of law:-

"1. Whether the decision of Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Chennai (CESTAT for short) allowing refund of Cenvat Credit accumulated prior to registration of a premises of the assessee is correct?

2. Whether CESTAT erred in not considering the safeguards, conditions and limitations stipulated under the Notification No.27/2012-CE(NT) dated 18/6/2012?

3. Whether time limit prescribed for claim of refund under Section 11 B of Central Excise Act, 1944, i.e., reckoned from date of export would prevail, or whether time limit as interpreted by Commissioner (Appeals) in terms of Notification No.27/2012 CE NT dated 18/6/2012 which is reckoned from end of quarterto which refund claim pertain would prevail; and

4. Whether the issue of time bar needs to be decided afresh by CESTAT, as the said issue was one of the grounds of appeal which has not been considered by CESTAT while dismissing the appeals of the Department?"

2. We have gone through the materials available on record.

3. On similar substantial questions of law, this Court, in C.M.A.No.3493 of 2017, dated 22/12/2017, has answered the same, against the revenue.

4. We are of the view that following the decision in C.M.A.No.3493 of 2017, dated 22/12/2017, instant Civil Miscellaneous Appeals Nos.230 and 231 of 2018, filed by the revenue, on the same substantial questions of law, are liable to be dismissed.

5. Accordingly, Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mvs
To

The Customs, Excise & Service Tax Appellate Tribunal,
South Zonal Bench, Chennai.

+1 cc to M/s.Aparna Nandakumar Advocate sr 10573

Civil Miscellaneous Appeal Nos.230 and 231 of 2018

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