

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2018

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM
and
THE HON'BLE MRS. JUSTICE BHAVANI SUBBAROYAN

C.M.A.No.2057 of 2017

The Commissioner of Central Excise,
No.1, Foulks Compound,
Anaaimedu,
Salem - 636 001. Appellant/Respondent

Vs

M/s.ECOF Industries Pvt. Ltd.,
No.43/1-B, Survey No.202/3B,
Jagirammappalayam, Pannapatti,
Salem - 636 302. Respondent/Appellant

Prayer : Civil Miscellaneous Appeal is filed under Section 35G of the Central Excise Act, 1944, seeking to set aside the Final Order No.41059 of 2016, dated 28.06.2016, in Appeal No.E/40467/2014-SM on the file of the Customs, Excise, Service Tax Appellate Tribunal, Chennai.

For Appellant : Mr.K.Magesh

For Respondent : Mr.K.Narayanan
for Mr.N.Prasad

JUDGMENT

(Judgment of the Court was delivered by

T.S.SIVAGNANAM, J.)

This appeal has been filed by the Revenue challenging the order passed by the Customs Excise Service Tax Appellate Tribunal, Chennai, in Final Order No.41059/2016, dated 28.06.2016. The appeal has been filed raising the following substantial questions of law:-

i) Whether the Tribunal is correct in allowing the appeal of the first respondent by dropping the irregular

availment of Cenvat Credit on input found short on them?

ii) Whether the Tribunal is right in allowing the appeal of the first respondent that the input credit on the goods which are not actually used in the manufacture of final product and contrary to the Rules 2(k) & 9 of Cenvat Credit Rules, 2004?

2. Learned counsel for the appellant submitted that he has received a written instruction of the Deputy Commissioner (Legal), Office of the Commissioner of GST & Central Excise, Salem, vide letter dated 17.08.2018, to withdraw the appeal on account of the low tax effect.

3. The above said submission of the learned counsel for the appellant is placed on record and the Civil Miscellaneous Appeal is dismissed as withdrawn. The Substantial questions of law raised are left open. No Costs. Consequently, CMP.No.11050 of 2017 is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner of Central Excise,
No.1, Foulks Compound, Anaimeedu,
Salem - 636 001.

+1cc to M/S.K.Magesh, Advocate Sr.58100
+1cc to M/S.N.Inbarajan, Advocate Sr.58222

C.M.A.No.2057 of 2017

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srg 18/09/2018