IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2018

CORAM :

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

C.M.A. No.545 of 2017

The Commissioner of Central Excise
Chennai II Commissionerate,
M.H.U.Complex,
No.692, Anna Salai,
Nandanam
Chennai-600 035 ... Appellant

-vs-

M/s.Carboline India Pvt.Ltd.,
No.356 & 357, Sidco Industrial Estate,
Ambattur,
Chennai-600 098 ... Respondent

Civil Miscellaneous Appeal filed under Section 35G of Central Excise Act, 1944 against the Final Order of the Customs Excise and Service Tax Appellate Tribunal, Chennai Bench, Chennai, dated 29.04.2016, in Final Order No.40688/2016, received on 20.05.2016.

For Appellant : Mr.A.P.Srinivas

For Respondent : Mr.Thomas T.Jacab

J U D G M E N T

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

This appeal by the Revenue is directed against the order passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai Bench, Chennai in Final Order No.40688/2016, dated 29.04.2016.

2.Heard Mr.A.P.Srinivas, learned Counsel for the Appellant and Mr.Thoma T.Jacab, learned counsel for the Respondent.

3.This appeal has been filed by the Revenue raising the following substantial questions of law:-

> "1.Whether the CESTAT is correct in holding that the assessee is entitled to avail the Cenvat Credit on Group Insurance services provided to the employees of the factory as an input service despite the fact that the service does not fall under the ambit of the definition of "Input service" specified under Rule 2(l) of Cenvat Credit Rules, 2004, as the services are neither used in or in relation to the manufacture or clearance of final product nor can it be said, to be an activity relating to business.
>
> 2.Whether the CESTAT is correct in holding that the Service Tax paid o the manpower service for providing output service at customer's site can be treated as input service specified under Rule 2(l) of Cenvat Credit Rules, 2004, as the services are neither used in or in relation to the manufacture or clearance of final product nor can it be said, to be an activity relating to business.
>
> 3.Whether the order passed by the tribunal is legal and proper as there is no finding of fact on the issue involved and CESTAT order is mere reiteration of Order-in-Appeal without considering the grounds of appeal filed by the department.
>
> 4.Whether the order is fit for remand to tribunal for passing of speaking order as held by the Hon'ble High Court in as much as there is no detailed discussion on the question of law."

4.It may not be necessary for this Court to examine the correctness of the decision of the Tribunal or to answer the Substantial Questions of Law, in the light of the low tax effect in this appeal. The Central Board of Direct Taxes, vide Circular No.3 of 2018, dated 11.7.2018, has directed that appeals shall not be filed before this Court, where the tax effect does not exceed the monetary limit of Rs.50 lakhs. The said Circular has been made applicable to pending matters as well.

5.In the light of the Circular, the Revenue cannot pursue this appeal. The Revenue does not dispute the fact that the tax effect involved in this appeal is less than the threshold limit mentioned in Circular No.3 of 2018.

6.In view of the above, the appeal, filed by the Revenue, is dismissed on the ground of low tax effect and the Substantial Questions of Law framed for consideration are left open. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msk

To

The Customs Excise and Service Tax Appellate Tribunal,
Chennai Bench, Chennai.

+1 cc to Mr.A.P.Srinivas, Advocate SR.No.71270

C.M.A.No.545 of 2017

PA(CO)
CSL/27.11.2018