In the High Court of Judicature at Madras

Dated : 15.11.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice N.SATHISH KUMAR

Civil Miscellaneous Appeal No.2615 of 2018

The Commissioner of GST &
Central Excise, formerly known as
the Commissioner of Customs,
Central Excise and Service Tax,
Salem-1. ...Appellant

Vs

M/s.Vijaya Samundeswari Textiles
Pvt. Ltd., Salem-111. ...Respondent

APPEAL under Section 35G of the Central Excise Act, 1944 against final order No.42823 of 2013 in Appeal No.E/329/2005 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai dated 26.7.2017.

For Appellant : Mr.Rajnish Pathiyil
For Respondent: Mr.Jaikumar & Ms.P.Srija

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned counsel for the appellant.

2. This appeal by the Revenue is directed against the final order passed by the Customs, Excise and Service Tax Appellate Tribunal dated 26.7.2017 raising the following substantial questions of law :

> "i. Has not the Tribunal fallen in error in not appreciating the evidence adduced by the Department ?
>
> ii. Has not the Tribunal fallen in error in setting aside the Order-in-Appeal ignoring the principles of preponderance of probabilities, which is applicable to the

case of clandestine removal of goods ? And

iii. Has not the Tribunal fallen in error in ignoring the fact that the statements, which were the basis of demand stand proved when not refuted or validly retracted ?"

3. The learned Standing Counsel for the appellant has produced a letter dated 17.8.2018 sent to him by the Deputy Commissioner (Legal), Office of the Commissioner of GST and Central Excise, Salem stating that on account of the monetary limit in this appeal, which is lesser than the threshold fixed by the Board's circular dated 11.7.2018, the learned Standing Counsel has been instructed to do the needful to withdraw the appeal.

4. The communication dated 17.8.2018 is placed on record and this civil miscellaneous appeal is dismissed as withdrawn and the substantial questions of law in this appeal are left open. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

RS Sub Assistant Registrar

To

The Customs, Excise and Service Tax Appellate Tribunal,
South Zonal Bench,
No.26, Sastri Bhavan Annexe Building,
Haddows Road, Chennai-6.

Copy to:

The Commissioner of GST &
Central Excise, formerly known as
the Commissioner of Customs,
Central Excise and Service Tax,
Salem-1.

+1 cc to Mr.Jaikumar, Advocate SR No.77871
+1 cc to M/s.Rajnish Pathiyil, Advocate SR No.78187

CMA.No.2615 of 2018

MG(CO)
SSM/03/12/2018.