In the High Court of Judicature at Madras

Dated : 04.12.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice N.SATHISH KUMAR

Civil Miscellaneous Appeal No.2820 of 2018

The Commissioner of GST &
Central Excise, Tiruchirapalli-1. ...Appellant/Respondent

Vs

M/s.Chemplast Sanmar Ltd.,
Phase-2, Cuddalore-5. ...Respondent/Appellant

APPEAL under Section 35G(1) of the Central Excise Tax Act, 1944 against Final Order No.40235 of 2018 dated 29.1.2018 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant : Mrs.R.Hemalatha, SSC

Judgment was delivered by T.S.SIVAGNANAM,J

We have heard the learned Senior Standing Counsel for the appellant.

2. This appeal by the Revenue under Section 35G(1) of the Central Excise Act, 1944 is directed against the final order passed by the Customs, Excise and Service Tax Appellate Tribunal dated 29.1.2018.

3. The above appeal has been filed raising the following substantial questions of law :

> "i. Whether the Tribunal was right in applying the decision of the Hon'ble Supreme Court in the case of Rajasthan Spinning & Weaving Mills Ltd. [reported in (2010) 255 ELT 481], which is clearly indistinguishable from the facts of the case before hand and is also not applicable in the context of provisions contained in the relevant point of time? And

ii. Whether M.S.Angels, M.S.Joints and other allied items used in the construction of structures of the manufacturing unit, when, admittedly, they are not directly or indirectly related in the manufacture process qualify to be capital goods in terms of Rule 2(a) of the CENVAT Credit Rules, 2004?"

4. The above referred to substantial questions of law were considered by a Division Bench of this Court in the case of M/s.Thiru Arooran Sugars Vs. CESTAT, Chennai [CMA.Nos.3814 of 2011 and 2695 and 2696 of 2012 dated 10.7.2017]. The Tribunal referred to the said decision in the impugned order and allowed the appeal filed by the assessee. Since identical substantial questions of law were decided against the Revenue in the case of M/s.Thiru Arooran Sugars, it has been followed by the Tribunal in the impugned order. We find no ground to interfere with the impugned order.

5. Accordingly, the above civil miscellaneous appeal filed by the Revenue is dismissed. The substantial questions of law are answered against the Revenue.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To
1. The Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

2. The Commissioner of GST & Central Excise
No.1 Williams Road, Contonment,
Tiruchirapalli 620 001.

+1 CC to Mrs.R.Hemalatha, Advocate sr 83338

CMA.No.2820 of 2018

SJ(CO)
SP(02/01/2019)