

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition No.25673 of 2013

Order: (per V.Ramasubramanian, J.)

Aggrieved by a condition imposed by the CESTAT for the grant of a stay pending disposal of an appeal, the assessee has come up with the above writ petition.

2. Heard Mr. S.Ravi, learned Senior Counsel appearing for the petitioner and Mr. M.Vijay Kumar Goud, learned Standing Counsel for the respondent.

3. The writ petition is of the year 2013. The writ petition challenges an order dated 10-7-2013 passed by CESTAT, granting stay of recovery of the Cenvat Credit availed by the petitioner, subject to the condition that the petitioner remitted 50% of the Cenvat Credit availed. It is against the imposition of such a condition that the petitioner came up with the above writ petition.

4. At the time when the writ petition came up for admission on 03-9-2013, a Bench of this Court granted absolute stay. Now a period of nearly five years has passed.

5. It appears that the Tribunal relied upon a decision of a Larger Bench of the Tribunal in **Vandana Global Ltd. v. CCE, Raipur** [2010 (253) ELT 440 (Tri-LB)]. But the correctness of the decision in *Vandana Global Ltd.*, was

doubted by the Madras High Court in ***India Cements Ltd. v. Commissioner of Central Excise***¹.

6. Therefore, at this juncture, there is no point in spending time in testing the correctness of the conditional order of stay passed by the Tribunal. Hence, the writ petition is allowed, setting aside the condition imposed in the impugned order alone and directing the Tribunal to dispose of Service Tax Appeal No.2646 of 2011 within a period of 3 (three) months from the date of receipt of a copy of this order. The petitioner will have the benefit of interim stay as granted at the time of admission of the writ petition, till the disposal of the appeal by the Tribunal. The applications, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

11th April, 2018.
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¹ 2015 (325) ELT 109 (Mad.)

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11th April, 2018.
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