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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CEAC 18/2017

PRINCIPAL COMMISSIONER OF CENTRAL EXCISE, DELHI
..... Petitioner

Through: Ms. Nandini Singla, Proxy Counsel for Ms. K. Anatoli Sema, Adv.

versus

CLIMAX FILTER COMPONENTS PVT. LTD. ..... Respondent

Through: Mr. Parmil Kumar & Mr. Anil Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

<u>O R D E R</u>

% **06.08.2018**

The question of law urged by the Revenue in its appeal under Section 130 of the Customs Act, 1962 is that the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) fell into error in rejecting its appeal in upholding the relief of Cenvat credit, to the assessee.

The assessee did not discharge its duty liability under Rule 8(3A) of the Central Excise Rules which resulted in demand of duty with interest and a penalty. The Commissioner (Appeals) modified the adjudication order, resulting in the utilization of Cenvat credit during the defaulted period. The Commissioner (Appeals) relied upon the Gujarat High Court's ruling in *M/s. Indsur Global Ltd. v. Union of India (UOI)* [2014 (310) ELT 833(Guj.)] which was subsequently followed by the CESTAT.

The Revenue did not dispute that this Court has also followed *Indsur Global* (supra), however, learned counsel urges that the Gujarat High Court's ruling has now been subjected to an interim stay by the Supreme Court which has entertained the appeal. This argument too did not find favour by this Court. It is well known that even though the ultimate result might differ or might be subjected to "operation of stay", the reasoning underlining the decision can always be looked into and relied upon, in subsequent cases, if the circumstances so warrant.

Having regard to the above, the Court is of the opinion that no question of law arises.

The appeal is rejected.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

AUGUST 06, 2018/akv