IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM :

THE HON'BLE JUSTICE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1219 of 2007

Commissioner of Central Excise
Chennai. ... Appellant /Respondent

Vs.

M/s.Jupiter Textiles Processing
No.4, Ellaya Mudali Street
Tondiarpet, Chennai - 600 081. ... Respondent/Appellant

Appeal filed under Section 35G of the Central Excise Act, 1944 against the Final Order No.552/2006, dated 30.6.2006 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench at Chennai, which was served on the appellant on 12.9.2006.

For Appellant : Mr.A.P.Srinivas
Standing Counsel

JUDGMENT

(Delivered by The Hon'ble Acting Chief Justice)

This appeal has been filed by the Department calling in question the correctness of the order passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai. The appeal was admitted on the following substantial questions of law:

> "(i) Whether the Appellate Tribunal is right in vacating the penalty amount of Rs.14,79,032/- when the said penalty was imposed in accordance with the Rule 96ZQ5(ii) of Central Excise Rules, 1944, when the respondent has committed default in the payment of duty?

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(ii) Whether the Appellate Tribunal has not improperly exercised their judicial discretion in waiving the penalty?"

2. When the matter is taken up for hearing, the learned Standing Counsel for the Appellant Department, Mr.P.Srinivas, brought to our notice the Circular instruction issued by the Central Board of Indirect Taxes and Customs vide Circular F.No.390/Misc/116/2017-JC, dated 22.08.2019, wherein it is stipulated that appeal shall not be filed/pursued by the Department before the High Court in cases where the excise duty/service tax demand does not exceed Rs.1 Crore.

3. In the instant case, the excise duty/service tax demand is said to be less than the monetary limit imposed and, therefore, the appeal filed by the Department is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sasi

To:

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

+1cc to Mr.A.P.Srinivas, Advocate Sr.90447

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