IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Civil Miscellaneous Appeal No.1106 of 2009

The Commissioner of Central Excise,
Salem Commissionerate,
No.1, Foulks Compounds, Anai Medu, Salem. .. Appellant

-vs-

1.K.G.Denim Limited,
Indayampalayam,
Mettupalayam-641 302.

2.Customs, Excise and Service Tax Appellate Tribunal,
South Zonal Bench, Shastri Bhavan,
Haddows Road, Chennai-600 006. .. Respondents

APPEAL under Section 35G of the Central Excise Act, 1944 to set aside the order dated 18.03.2008 in Final Order No.251/08 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant : Mr.K.S.Ramaswamy,
Senior Standing Counsel

For Respondent-1: Mr.A.Lawrence,
for Mr.V.Lakshmi Kumaran

JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal has been filed by the Revenue under Section 35G of the Central Excise Act, 1944, challenging the order dated 18.03.2008 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai (for brevity "the Tribunal"), in Final Order No.251/08.

2.The above appeal has been filed raising the following substantial question of law:-

"Whether the Tribunal is correct in law in extending the 'deemed credit' on the inputs in question when Notification No.29/96 CE(NT), dated 3.9.1996 clearly allowed the credit only for export as there is no provision in the said Notification which allows deemed credit of duty paid on inputs which are utilised for the manufacture in final products cleared to 100% Export Oriented Units."

3.Heard Mr.K.S.Ramaswamy, learned Senior Standing Counsel for the appellant; and Mr.A.Lawrence, learned counsel, for Mr.V.Lakshmi Kumaran, learned counsel for the 1st respondent.

4.It is submitted by Mr.K.S.Ramaswamy, learned Senior Standing Counsel for the appellant that he has been instructed by the Department, vide letter dated 11.07.2018, to withdraw this appeal on the ground of low tax effect. The learned Senior Standing Counsel has also made an endorsement to withdraw the appeal.

5.Recording the endorsement made by the learned Senior Standing Counsel, this appal stands dismissed as withdrawn. No costs. The Revenue is at liberty to seek for restoration of appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

abr

To

1.Customs, Excise and Service Tax Appellate Tribunal,
South Zonal Bench, Shastri Bhawan Annexe 1st Floor,
26, Haddows Road, Chennai-600 006.

2.The Joint Commissioner,
O/o The Commissioner of Central Excise,
No.1, Foulks Compound, Anai Road, Salem-636 001.

3.The Commissioner (Appeals),
O/o The Commissioner of Central Excise (Appeals),
Foulks Compound, Anai Road, Salem-636 001.

+1cc to Mr.K.S.Ramaswamy, Advocate SR.No.27267

C.M.A.No.1106 of 2009

RK(CO)
GMY(03/05/2019)