IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.12.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

C.M.A.No.2733 of 2010

The Commissioner of Central Excise,
Chennai II Commissionerate,
No.692, MHU Complex, Anna Salai,
Nandanam,
Chennai - 600 035. ... Appellant/Appellant

V.

M/s.Schneider Electrict India (P) Ltd.,
25A/2A, Dairy Road, SIDCO Industrial Estate,
Chennai - 600 098 ... Respondent/Respondent

Prayer: Appeal filed under Section 35G of the Central Excise Act, 1944, against the order of the Customs, Excise & Service Tax Appellate Tribunal, Chennai passed in Fina Order No.196/2010 dated 16.02.2010 received on 01.03.2010.

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel

For Respondent: Notice served - returned

JUDGMENT
(Judgment of the Court was delivery by Dr.VINEET KOTHARI, J.)

This Civil Miscellaneous Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai, dated 16.02.2010, by raising the following substantial questions of law:

> "1.In the facts and circumstances of the case, whether the respondent can avail Cenvat Credit of Service Tax paid on 'outdoor catering service' treating them as 'input service', when such services is not directly or in relation to the manufacturing activities of final product? and

2.Whether the CESTAT was correct in law in applying the ratio of the Larger Bench of the Tribunal's decision in the case of CCE, Mumbai vs. GTC Industries Ltd., as reported in 2008 (12) STR 468 (Tri-LB) which was appealed before the Hon'ble High Court, Bombay and the Central Excise Appeal No.CEXA/21/2010?"

2.When the matter is taken up for hearing, Mrs.R.Hemalatha, learned Senior Standing Counsel brought to our notice the Instruction issued by the Central Board of Indirect Taxes and Customs dated 22nd August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3.In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//
Sub Assistant Registrar

Sgl
To

1.The Customs, Excise & Service
Tax Appellate Tribunal, Chennai.

2.The Commissioner of Central Excise,
Chennai II Commissionerate,
No.692, MHU Complex, Anna Salai,
Nandanam, Chennai - 600 035.

+1cc to Mrs.R.Hemalatha, Advocate SR.103775

C.M.A.No.2733 of 2010

MR(CO)
CB(28/01/2020)