IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2019

C O R A M

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.1451 of 2018

The Commissioner of GST and Central Excise,
Puducherrry Commissionerate,
Beach Road, Puducherry - 605 001. ... Appellant/Respondent

..Vs..

M/s.Doosan Infracore Indian Private Ltd.,
No.21/1, 21/2 Canal Raod, Koodapakkam Village,
Vazhudavoor South,
Puducherry - 605 002. .. Respondent /Appellant

Prayer: Appeal filed under Section 35 G of the Central Excise Act, 1944 against the Final Order No.40957 of 2018 dated 21.03.2018 passed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), South Zonal Bench, Chennai Bench and against the Order dated 28.02.2011 made in Original No.9/2011 (c) on the file of the Commissioner of Central Excise, Goubert Avenue, Puducherry.

For appellant : Ms.R.Hemalatha
Senior Standing Counsel for Customs, Central Excise & Service Tax

For Respondent : Mr.M.A.Mudimannan

J U D G M E N T

(Judgment of the Court was made by S.Manikumar,J)

Civil Miscellaneous Appeal is filed against the Final Order No.40957 of 2018 dated 21.03.2018 passed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), South Zonal Bench, Chennai Bench, on the following substantial questions of law.

(i) Whether the Hon'ble Tribunal was right in holding that suppression was not made out as intent to evade payment of duty was absent when the assessee had disclosed the entire details of inputs cleared as such in the statutory ER-1 return?

(ii) Whether the findings of the Hon'ble Tribunal in the circumstances of the case was justified upon failure to note that Rule 9(5) and 9(6) of the Cenvat Credit Rules 2004 prescribed mandatory procedure for maintenance of accounts?

2. Material on record discloses that Ms.Hemalatha, learned Senior Standing Counsel for Customs, Central Excise & Service Tax, has circulated a letter dated 06.09.2019 to the Registrar (Judicial), High Court, Madras, seeking listing of the case for withdrawal. Letter dated 06.09.2019 reads thus and the same shall be treated as part of the record.

Sir,

Sub: Letter for withdrawal - reg.

This is to inform you that I have been instructed by the Assistant Commissioner (legal) of the Pondicherry Commissionerate to withdraw the following appeals in view of the enhanced monetary limit fixed vide instructions in F.No.390/MISC/116/2017-JC dated 22.08.2019 issued by the CBIC (Judicial Cell)

1. CMA No.1451/2018 - Doosan Infracore.
2. CMA No.1778/2018 - Sunbeam Generators.

Kindly request you to list the above 2 matters before the concerned court under the caption "for withdrawal".

This is for your kind information and immediate action,

Thanking you,

With regard,

Sd/-

R.Hemalatha

Encl. CBIC Board Instruction.

Further, Ms.Hemalatha, learned Senior Standing Counsel also made oral submissions.

3. Placing on record the above, while dismissing the Civil Miscellaneous Appeal No.1451 of 2018, as withdrawn, substantial questions of law raised, are left open. No costs. Consequently, the connected Miscellaneous Petition is closed.

ars

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of GST and Central Excise,
Puducherrry Commissionerate,
Beach Road,
Puducherry - 605 001.

2. The Registrar,
Customs, Excise & Service Tax Appellate Tribunal,
Suth Zonal Bench, Chennai.

+1cc to M/s.R.Hemalatha, Advocate, SR.No.80878/19
+1cc to Mr.K.Jayachandran, Advocate, SR.No.80839/19

CMA No.1451 of 2018

Kak(05/11/2019)