IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

CORAM :

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

CMA NO.893 of 2018

The Commissioner of G.S.T. and Central Excise
Formerly known as The Commissioner of
Central Excise
Office of the Commissioner of G.S.T &
Central Excise
No.1, Foulks Compound, Anaimedu,
Salem - 636 001. ... Appellant

Vs.

The Salem Co-operative Sugar Mills Ltd.
Mohanur, Namakkal District- 637 015. ... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 35(G) of Central Excise Act, 1944, against the Final Order No.41705 of 2017 dated 10.08.2017 passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai Bench, in Appeal No.E/38/2008-DB.

For Appellant : Mr.Rajnish Pathiyil

For Respondent : Mr.Derrick Sam

J U D G M E N T

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

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

"1. Has not the Hon'ble CESTAT fallen in error in holding that Un-denatured alcohol is not a specified good under Rule 6(3)(A)?

2. Has not the Hon'ble CESTAT fallen in error in holding that the Un-denatured alcohol

does not fall within the chapter heading 22.07?

3. Has not the Hon'ble CESTAT fallen in error in holding that the Un-denatured alcohol is non-excisable? "

2. When the matter is taken up for hearing, the learned counsel for the appellant brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 08.08.2019, 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 Crore.

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than the monetary limit imposed and therefore, the Civil Miscellaneous Appeal filed by the Appellant is dismissed, as withdrawn, keeping open the substantial questions of law for determination in an appropriate case.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

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsm
To

1.The Customs, Excise and Service Tax
Appellate Tribunal,
Chennai Bench
Shastri Bhavan
No.26, Haddows Road, Chennai - 600 006.

2.The Commissioner of G.S.T. and Central Excise
Formerly known as The Commissioner of
Central Excise
Office of the Commissioner of G.S.T &
Central Excise
No.1, Foulks Compound, Anaimedu, Salem - 636 001.

+1cc to M/s.Rajnish Pathiyil, Advocate Sr.96235
+1cc to Mr.Hari Radhakrishnan, Advocate Sr.96203

CMA NO.893 OF 2018

ss[co]
srg 10/01/2020