In the High Court of Judicature at Madras

Dated : 18.1.2019

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The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice N.SATHISH KUMAR

Civil Miscellaneous Appeal Nos.2932 to 2934 of 2017
& CMP.Nos.17251 to 17253 of 2017

The Commissioner of Central Excise, No.1, Foulks Compound, Anaimedu, Salem-1 ...Appellant in all the CMAs

Vs

1.M/s.Ashok Granites, Q & T Division, Salem-4 ...Respondent-1 in all the CMAs

2.The Customs, Excise and Service Tax Appellate Tribunal, No.26, Sastri Bhavan Annexe Building, Haddows Road, Chennai-6. ...Respondent-2 in all the CMAs

APPEALS under Section 35G of the Central Excise Act, 1944 against the common Final Order Nos.41108 to 41110 of 2016 dated 14.7.2016 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai in Appeal Nos.ST/40872/2015, ST/40874/2015 and ST/ 40875/2015.

For Appellant : Mr.K.Magesh, JSC

For Respondent-1 : Mr.R.Swarnavel for M/s.S.Venkatachalam

COMMON JUDGMENT

(Judgment was delivered by T.S.SIVAGNANAM,J)

These appeals by the Revenue have been directed against the common final order passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai in Final Order Nos.41108 to 41110 of 2016 dated 14.7.2016. The appeals were admitted on 04.12.2017 on the following substantial question of law:-

> "Whether the Tribunal is correct in holding that the limitation period set out in Section 11B of the Central Excise Act, 1944 will prevail over the limitation period

set out specifically in Notification No.41/2012-ST dated 29.6.2012 in respect of refund claims preferred under the said Notification?”

2. The learned Junior Standing Counsel for the appellant has produced letters dated 03.1.2019 received from the Assistant Commissioner (Legal), Salem, Office of the Commissioner of GST and Central Excise, Salem-1 instructing to withdraw the above appeals based on the Board's monetary policy circular. He would state that on account of the monetary limits involved in these appeals, which are lesser than the threshold fixed by the Board's Circular dated 11.7.2018, he has been instructed to withdraw the appeals.

3. Be that as it may, it is seen that the Original Authority rejected the refund claim to the tune of Rs.1,36,016/, Rs.94,308/- and Rs.1,32,122/- respectively for the periods 01.4.2013 to 30.6.2013, 01.7.2013 to 30.9.2013 and 01.10.2013 to 31.12.2013. Thus, the monetary limits, involved in the instant cases, being well below the amount fixed in the instruction dated 11.7.2018, we hold that the Department cannot pursue these appeals.

4. The letters produced by the learned Junior Standing Counsel for the appellant dated 03.1.2019 are placed on record. These civil miscellaneous appeals are dismissed as withdrawn and the substantial question of law framed in these appeals is left open. No costs. Consequently, the connected CMPs are also dismissed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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

2. The Commissioner of Central Excise
No.1 Foulks Compound
Anaimedu, Salem 636 001.

+1 CC to Mr.K.Magesh, Advocate sr 3569.
+2 Ccs to Mr.R.Swarnavel, Advocate sr 4458.

CMA.Nos.2932 to 2934 of 2017 &
CMP.Nos.17251 to 17253 of 2017

SP(20/02/2019)