BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **04.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE Mrs.JUSTICE R.THARANI

C.M.A.(MD).Nos.869 to 871 of 2011

and

M.P.(MD).Nos.1 and 1 of 2011

in

C.M.A(MD).Nos.870 and 871 of 2011

The Commissioner of Central Excise
Customs House,
New Harbour Estate,
Tuticorin-628 004 ... Appellant/Respondent in all C.M.As

Vs.

1.Shri.A.Gopalakrishnan
Managing Partnership
M/s.Unity Overseas,
No.7, T.S.Puram,
Vallipalayam, Tirupur-641 602 ... Respondent/Appellant in all C.M.A(MD).No.869/2011

2.M/s.Shree Koverthanambigai Textiles,
No.8/3769, Anna Nagar,
P.N.Road,
Tirupur. ... Respondent/Appellant in C.M.A.(MD).No.870/2011

3.M/s.Adarsh Shipping Agencies,
No.33, Second Street,
Boltaenpuram,
Tuticorin-628 003. ... Respondent/Appellant in C.M.A(MD)No.871/2011

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 130 of the Customs Act, 1962, against the Final Order Nos.1310, 1311 and 1312 of 2010 respectively, dated 20.12.2010 passed by the Customs Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant in all C.M.As : Mr.S.Gurumoorthy
For Respondents in all C.M.As : Mr.S.Murugappan

COMMON JUDGMENT

[Judgment of this Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Gurumoorthy, learned counsel appearing for the appellant and Mr.S.Muniyappan, learned counsel appearing for the respondents.

2.These appeals have been filed by the Revenue challenging the order passed by the Customs Excise and Service Tax Appellate Tribunal, Southern Zonal Bench, Chennai, in Final Order Nos.1310, 1311 and 1312 of 2010 respectively, dated 20.12.2010.

3.These appeals have been admitted for the following substantial questions of law,

> *"(1)Whether the CESTAT is right in expanding the phrase "Competent Government agency" so as to exclude Regional Textile Commissioner?*
> *(2)Is not the Regional Textile Commissioner competent to inspect and report about Embroidery Machines which are only a textile machineries?"*

4.The Central Board of Indirect Taxes and Customs had issued circulars from time to time and the latest being the circular, dated 22.08.2019, which fixed the monetary limits for the Department to file appeals against the order of the Tribunal and *per se*, the appeal pending before this Court, subject to the condition, the monetary limit should be above Rs.1 crore. Earlier there was an instruction stipulating the lesser amount, however, the instruction dated 22.08.2019 issued by the Central Board of Indirect Taxes and Customs (CBITC) is not only applicable to the fresh cases but also the pending cases. Thus, applying the said instruction, these appeals are dismissed as withdrawn and the substantial questions of law raises in these appeals are left open. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Ns
+1 CC to Mr.S.MURUGAPPAN, Advocate (SR-91487[F] dated 04/10/2019)

+1 CC to Mr.B.VIJAY KARTHIKEYAN, Advocate (SR-91584[F] dated 09/10/2019)

C.M.A.(MD).Nos.869 to 871 of 2011
and
M.P.(MD).Nos.1 and 1 of 2011
in
C.M.A(MD).No.870 and 871 of 2011
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