BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2019

CORAM:

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**

and

THE HONOURABLE **MRS.JUSTICE R.THARANI**

C.M.A(MD).No.402 of 2019
and
C.M.P(MD).No.4776 of 2019

The Commissioner of Customs
Custom House,
New Harbour Estate,
Tuticorin-628 004. ... Appellant/Respondent

Vs.

M/s Krishna & Co.,
No.2/91-1,
Tiruchendur Road,
Tuticorin-628 005.
Tamil Nadu ... Respondent/Appellant

Prayer: Appeal is filed under Section 130 of the Customs Act, 1962, to consider the above appeal and set aside the impugned order of the CESTAT in common final order No.40271-40292/2018 dated 31.01.2018.

For Appellant : Mr.B.Vijay Karthikeyan

For Respondent : Mr.A.K.Jayaraj

JUDGMENT

(Judgment of the Court was made by **T.S.SIVAGNANAM,J.**)

We have heard Mr.B.Vijaykarthikeyan, learned counsel appearing for appellant and Mr.A.K.Jayaraj, learned counsel appearing for respondent.

2.The appeal by the Revenue is directed against the common order passed by the Customs Excise Service Tax Appellate Tribunal, South Zonal Bench, Chennai, (hereinafter referred to as 'Tribunal' for the sake of brevity), dated 31.01.2018. The appeal has been filed raising the following substantial question of law:

'Whether the Customs Excise Service Tax Appellate

Tribunal (CESTAT) is correct in allowing the benefit of concessional rate of counter Veiling Duty (CVD) on the imports wherein the importers have failed to fulfil the conditions stipulated in the Notification No.4/2006-CE as amended and also when such imports by the importers are in contrary to the conditions stipulated in the Notification No.4/2006-CE as amended?'

3. It may not be necessary for us to adjudicate the correctness of the order of the Tribunal. In the light of the fact that the appeal filed by the revenue is hit by the instructions issued by the Central Board of Excise and Customs, in File No.390/Misc./163/2010-JC, dated 17.12.2015.

4. In the light of the above, the Civil Miscellaneous Appeal filed by the revenue is dismissed on the ground of low tax effect. Consequently, the substantial question of law is left open.

5. In the event, the appellant revenue is of the opinion that the case will not fall within the instructions given by the Central Board, liberty is granted to the appellant to seek for restoration of this appeal. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

rmk
+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-100723[F] dated 22/11/2019)

+1 CC to M/s.AK. JAYARAJ, Advocate (SR-101561[F] dated 26/11/2019)

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