BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2019

CORAM:

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**
and
THE HONOURABLE **MRS.JUSTICE R.THARANI**

C.M.A(MD).No.7 of 2019
and
C.M.P(MD).No.65 of 2019

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

Vs.

M/s Vishaal Bricks,
Plot No.200, Jubilee Town,
G.R.Nagar Extension, K.Pudur,
Madurai-625 007.
Tamil Nadu. ... Respondent

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.41733-41734/2018 dated 19.03.2018.

For Appellant : Mr.B.Vijaykarthikeyan

For Respondent : Mr.S.Karunakar

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.S.Karunakar, learned counsel appearing for respondent.

2.The appeal by the Revenue is directed against the order passed by the Customs Excise Service Tax Appellate Tribunal (hereinafter referred to as 'Tribunal' for the sake of brevity), South Zonal Branch, Chennai, in final order, dated 19.13.2018. 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 fulfill 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 nor substantial question of law framed for consideration in the light of the recent circular issued by the Central Board of Excise and Customs, dated 17.12.2015 by the said Circular, the monetary limit has been fixed below, which the revenue cannot pursue the pending appeal nor file a fresh appeal. It is not in dispute that the tax involved in the present case is less-than the threshold limit prescribed in the circular instructions dated 17.12.2015. For such reason, the Civil Miscellaneous Appeal is dismissed on the ground of low tax. However, substantial question of law raised for consideration is left open. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

rmk

To

1. The Assistant Registrar,
   Customs, Excise & Service Tax,
   Appellate Tribunal, South Zonal Bench,
   No.26, Sashtri Bhawan Annexe Building,
   Haddows Road, Chennai-6

2. The Commissioner of Customs, Tuticorin.

3. The Commissioner of Central Excise (Appeals)
   Tuticorin.

4. The Commissioner of Central Excise (Appeals-II)
   Trichy.

Copy to

The Section Officer, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.B.VIJAY KARTHIKEYAN, Advocate (SR-95813[F] dated 04/11/2019)

+1 CC to Mr.S,KARUNAKAR, Advocate (SR-95742[F] dated 04/11/2019)

C.M.A(MD).No.7 of 2019
01.11.2019

VB(15.11.2019) 3P 9C