BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.(MD).No.288 of 2018
and
C.M.P(MD).No.4064 of 2018

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

Vs.

1.M/s.Mahilaratnam Women's Monthly
R.Krishnaswamy Memorial Building,
Lakshminada
Kollam-691 013
Kerala ...1st Respondent/Appellant/Appellant

2.The Customs, Excise & Service Tax Appellate Tribunal
South Zonal Bench,
Shastri Bhavan 1st Floor,
No.26, Haddows Road,
Chennai-600 006. ..2nd Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 130 of the Customs Act, 1962, to set aside the impugned Order of the CESTAT in Final Order No.42167/2017 Appeal No.C/234/2009-DB dated 26.09.2017 passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai.

For Appellant : Mr.B.Vijay Karthikeyan

For R1 : Mr.D.Arun, for
Mr.Lakshmi Kumaran

For R2 : No appearance

JUDGMENT

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

Heard Mr.B.Vijaya Karthikeyan, learned Senior Standing counsel appearing for the appellant and Mr.D.Arun, learned counsel representing Mr.Lakshmi Kumaran, learned counsel appearing for the first respondent.

2.This appeal filed by the Revenue under Section 130 of the Customs Act, 1962, is directed against the final order passed by the CESTAT, South Zonal Bench, Chennai, Order No.42167/2017, dated 26.09.2017. The Revenue has raised the following substantial questions of law for consideration;

"**Question of Law:**

(i)Whether the CESTAT is correct in disregarding definition in the Chapter notes, which is an integral part of Customs Tariff Act, when it comes to extending effective rate of duty vis-a-vis an exemption notification?

(ii)Whether the CESTAT is correct in observing that when it comes to extending effect rate of duty, the intention of the legislature will certainly have to be given paramount importance and supremacy over even chapter notes?

(iii)Whether the CESTAT is correct in relying on the end-use of the imported goods when the exemption in not end-use based but based on the specification of surface roughness of the newsprint?"

3.It may not be necessary for us to decide the matter on merits as the amount of differential duty for customs demanded from the respondent is only Rs.3,69,650/- and this appeal is hit by the mandatory limit given in the instructions issued by the Central Board of Excise and Customs, dated 17.12.2015. In the said instructions, it has been stated that the monetary limit for enabling the Revenue to pursue the appeal before the High Court is **(*) Rs.15 Lakhs** and the instruction shall also apply to the appeals which are pending and appeals to be filed.

4.In the light of the stipulation contained in the instruction issued by the Central Board of Excise and Customs, the appellant cannot pursue the present appeal. However, it is made clear that the judgment is passed only on the ground that the appeal is hit by the monetary limit fixed under the instruction **(**)dated 17.12.2015** and the substantial questions of law which have been framed for consideration are left open to be raised as and when need arises in the Assessee's case or in the case of any other Assessee similarly placed.

5.With the above observation, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

(*) and (**)AMENDED AS PER ORDER OF THIS HON'BLE COURT DATED 18.10.2019.

Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub Assistant Registrar (CS)

To
To be substituted the order already despatched on 27/09/2019.

The Customs, Excise & Service Tax Appellate Tribunal,
South Zonal Bench,
Shastri Bhavan 1st Floor,
No.26, Haddows Road,
Chennai-600 006.

+1 CC to Mr.B.VIJAY KARTHIKEYAN, Advocate SR-86243 dated 12/09/2019.
+1 CC to M/s.LAKSHMI KUMARAN, Advocate SR-86689 dated 13/09/2019.

NS

C.M.A.(MD).No.288 of 2018
and
C.M.P(MD).No.4064 of 2018
10.09.2019

KM/(27.09.2019) 3P 4C
CS(30.10.2019) 3P 4C