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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.375 to 379 of 2018

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

Vs.

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

2.M/s.Sri Rajendra Mansukhlal Shah
No.12/3111, Rani Talao
Parsi Sheri, Surat,
Gujarat. ..2nd Respondent in C.M.A(MD).No.375/2018

3.Shri.Mohammed Azam
No.79, Bangaru Naikan Street,
Ellis Road,
Chennai. ..2nd Respondent in C.M.A(MD).No.376/2018

4.M/s.Visal Tribotech (P) Ltd.,
Sy.86/1, Hellalige, Shandapura,
Bangalore-560 081,
Karnataka. ..2nd Respondent in C.M.A(MD).No.377/2018

5.Shri.R.Parrivallal
MD of M/s Visal Tribotech Pvt Ltd.,
Sy.86/1, Hellalige, Chandapura,
Bangalore-560081
Karnataka. ..2nd Respondent in C.M.A(MD).No.378/2018

6.M/s.Shri.Tarun Salot,
No.273, Purasaiwakkam High Road,
II Floor,
Chennai-600 007. ..2nd Respondent in C.M.A(MD).No.379/2018

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PRAYER: Civil Miscellaneous Appeals filed under Section 130 of the Customs Act, 1962, against the common final order No.41726-41731/2017 dated 17.08.2017 passed by the Customs, Excise and Service Tax Appellate Tribunal, Sourth Zonal Bench, Chennai.

For Appellant in all C.M.As	: Mr.R.Aravindan
For R1 in all C.M.As	: Mr.Sathish Sundar

COMMON JUDGMENT

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

Heard Mr.R.Aravindan, learned counsel appearing for the appellant and Mr.Sathish sundar, learned counsel appearing for the the first respondent.

2.These appeals have been filed by the Revenue challenging the order passed by the Customs Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, in final Order No.41726-41731/2017, dated 17.08.2017.

3.In these appeals, the Revenue has raised the following substantial questions of law,

(i)as to whether the Tribunal was right in allowing the appeals on the ground that the jurisdiction issue has to be decided by the Hon'ble Supreme Court in the appeal filed against the decision of the High Court of Delhi, in the case of MANGALI IMPEX V. UNION OF INDIA reported in 2016(335)ELT 605 (Del);

(ii)The next question is as to whether the Tribunal was right in allowing the appeals and simultaneously directing status quo to be maintained till a final decision is arrived at.

4.Identical orders were tested for its correctness in the Principal Bench to which one of us (T.S.S.,J,) is a party. After elaborate arguments, the Court held that the Tribunal was not justified in allowing the appeal and consequently directing status quo till the final decision of the Hon'ble Supreme Court and the appropriate procedure that should have been adopted is to keep the appeals pending and await the decision of the Hon'ble Supreme Court in the appeals filed against the decision in Mangali Impex. Therefore, we are inclined to take similar view in these appeals as well. Accordingly, the appeals filed by the Revenue are allowed and the order passed by the Tribunal is set aside and the appeals are restored to file of the Tribunal and the Tribunal shall keep the appeals pending and await the decision of the Hon'ble Supreme Court.

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It is made clear that the Department shall not initiate any coercive action against the respondents assessees and await final decision in the appeals, which have been restored to file of the Tribunal. No costs.

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Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

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

+1 CC to M/s.R.ARAVINDAN, Advocate (SR-91529[F] dated 04/10/2019)

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JMN(24.10.2019) 3P : 3C

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