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.167 and 168 of 2017
and
C.M.P.(MD).Nos.1862 and 1863 of 2017

The Commissioner of Customs
Customs House,
New Harbour Estate,
Tuticorin ... Appellant/Respondent in both C.M.As

Vs.

1.M/s.International Business and Trade
4/15-6, RBN Compound
Pitchampalayam Pudur
Perumanallur Road,
Tiruppur-641 603. ... 1st Respondent/Appellant in C.M.A(MD).No.167 of 2017

2.The Customs Excise and Service Tax Appellate Tribunal,
South Zonal Bench,
Chennai-600 006. . .. 2nd Respondent/Appellant in both C.M.As

2.M/s.National Synthetics,
4/15-6, RBN Compound
Pitchampalayam Pudur
Perumanallur Road,
Tiruppur-641 603. ... 1st Respondent/Appellant in C.M.A(MD).No.168 of 2017

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 130 of the Customs Act, 1962, against the order dated 03.05.2016 made in Final Order No.40727-40728/2016 on the line of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant in
both C.M.As : Mr.S.Gurumoorthy

For R1
in both C.M.As : Mr.Y.Prakash

For R2 in both
C.M.As : Mr.Sathish Sundar

COMMON JUDGMENT

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

Heard Mr.S.Gurumoorthy, learned counsel appearing for the appellant, Mr.Y.Prakash, learned counsel appearing for the first respondent and Mr.Sathish Sundar, learned counsel appearing for the second respondent.

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 No.40727-40728/2016 dated 03.05.2016.

3.In these appeals, the following substantial questions of law have been raised,

"*(i)Whether the 2nd respondent is legally correct in allowing interest against the delayed refund of Special Additional Duty Amount, which was sanctioned under Customs Notification No.102/2007-Cus dated 14.09.2007 issued under Section 25(1) of the Customs Act, 1962, more so, when the said notification does not provide interest for delayed refund of SAD amount?*

(ii)Whether the 2nd Respondent is legally correct in holding that interest is payable on delayed refund of Special Additional Duty amount under the provisions of Section 27A of the Customs Act, 1962, when the refund of Special Additional Duty is being sanctioned under Notification 102/2007-Cus dated 14.09.2007 issued under Section 25(1) of the Customs Act 1962.

(iii)Whether the impugned order of 2nd Respondent is tenable under law in relying on the order of Hon'ble Single Bench Judge, which has been stayed by the Hon'ble Division Bench of High Court of Madras?

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 (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

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To:

1.The Commissioner of Customs
Customs House,
New Harbour Estate,
Tuticorin.

2.The Customs, Excise and Service Tax
Appellate Tribunal,
South Zonal Bench,
Chennai- 600 006.

C.M.A.(MD).Nos.167 and 168 of 2017
and
C.M.P.(MD).Nos.1862 and 1863 of 2017

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