IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2020

CORAM :

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Civil Miscellaneous Appeal No.1019 OF 2005

Commissioner of Customs,
Chennai. ... Appellant

vs.

D.Ankineedu Chowdry ... Respondent

Prayer:Civil Miscellaneous Appeal filed under Section 130G the Customs Act 1962, against the Order dated 26.08.2004, in Final Order No.757/2004 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Branch, Chennai.

For Appellant :: Ms.R.Hemalatha,
Senior Standing Counsel

For Respondent :: Not ready in notice

JUDGMENT

(Delivered by Dr.Vineet Kothari, J.)

This Civil Miscellaneous Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai, dated 26 August 2004, by raising the following substantial question of law:

> “Whether the Appellate Tribunal has not committed an error of law in holding that Sec.112(b) of the Customs Act, 1962 will not apply to the facts of this case when the Respondent associated himself with the modus operandi of clearance of the gods by his brother D.Ramesh which falls under the category of “in any other manner dealing with any goods” in the said section?”

2. When the matter is taken up for hearing, the learned Senior Standing Counsel brought to our notice the instruction issued by the Central Board of Indirect Taxes and Customs dated 22 August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and, therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial question of law for determination in appropriate cases.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Registrar,
Customs, Excise & Service Tax
Appellate Tribunal,
Chennai.

2. The Commissioner of Service Tax,
Chennai-35.

3.The Commissioner of Customs,
Special Intelligence and Investigation Branch,
Chennai Air Port, Air Cargo Complex, Meenambakkam,
Chennai-600 027.

Copy to

The Section Officer,
VR Section, High Court, Madras-104.

C.M.A.No.1019 OF 2005

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srg 03/03/2020