IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.2.2020

CORAM :

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

Civil Miscellaneous Appeal No.1586 of 2009

Commissioner of Service Tax,
No.692, MHU Complex,
Anna Salai, Nandanam,
Chennai 600 035. ..Appellant/Respondent

v.

1. M/s.Sridhar & Santhanam,
Auras Corporate Centre,
IV Floor, 98A, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 018.

2. Customs Excise and Service Tax
Appellate Tribunal,
South Zonal Bench,
Sastri Bhawan Annex, 1st Floor,
No.26, Haddows Road,
Chennai 600 006. ..Respondents

Civil Miscellaneous Appeal filed under Section 35G of the Central Excise Act, 1944 read with Section 83 of Finance Act, 1994, against the Common Final Order No.1385/2008 dated 5.12.2008 passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai and arising out of Order-in-Appeal No.12/2006(M-St) dated 27/02/2006 the Commissioner of Central Excise (Appeals), Chennai.

For Appellant : Mr.V.Sundareswaran
Standing Counsel

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 5.12.2008, by raising the following substantial questions of law:

"i) Whether on the facts and circumstances of the case and in view of an explanation dated 1.8.2002 to the Notification No.59/98 dated 16.10.98, the Tribunal was right in law in holding that the first respondent firm was not liable to pay tax from 16.10.98 to 31.7.2002 for rendering Man Power Recruitment and Management Consultancy Services?
ii) Whether the Tribunal was right in holding that the Explanation dated 1.8.2002 to the Notification No.59/98 ST 16.10.98 sought to retrospectively deny a benefit to the first respondent?
iii) Whether the demand of the appellant was barred by limitation?"

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 22nd 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is said to be less than the monetary limit imposed and, therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

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

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

+1cc to Mr.V.Sundareswaran, Counsel for Senior Standing Counsel Customs Central Excise & Services(Tax)S.R.No.11693

C.M.A.No.1586/2009

(CO)
CS(/01/2019)