IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

CORAM

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

C.M.A.NO.1890 OF 2012

Commissioner of Central Excise and Service Tax,
No.1, Williams Road, Cantonment,
Tiruchirappalli - 620 001. ... Appellant

Vs.

1. M/s.Madras Cements Ltd.,
   Alathiyur Works, Cement Nagar Post,
   Perambalur District - PIN 621 730.

2. Customs, Excise and Service Tax
   Appellate Tribunal, South Zonal Bench,
   Shastri Bhavan Annexure,
   No.26, Haddows Road,
   Chennai - 600 006. ... Respondent

Appeal filed under Section 35G(2) of the Central Excise Act, 1944 against the Final Order No.855-856/2011 dated 27.07.2011 on the file of the 2nd respondent.

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel

For 1st Respondent : Mr.P.J.Rishikesh

For 2nd Respondent : Tribunal

JUDGMENT
(Judgment of the Court was delivered by DR.VINEET KOTHARI,J.)

The present Appeal has been filed by the Revenue against the order of the learned Tribunal dated 27.07.2011 whereby the learned Tribunal remanded the matter back to the First Appellant Authority with the following observations:

"4.The period involved in the case of M/s.Madras Cements Ltd. (Appeal E/221/2009) is also pre and post-1.4.2008 and is therefore remitted for fresh decision in the light of the Hon'ble Karnataka High Court's judgment cited supra. This appeal also is thus allowed by way of remand."

2.The learned counsel for the Revenue also brought to our notice that the Coordinate Bench of this Court [in which Dr.Vineet Kothari, J. was one of the Member] in the case of The Commissioner of Central Excise and Service Tax, Coimbatore Vs. Pricol Limited, Perianaickenpalayam, Coimbatore and another, decided on 22.07.2019 had also upheld the remand of the matter to the Tribunal with the following observations:

"5.Having heard the learned counsel for the parties, we are satisfied that the matter may go back to the learned Tribunal to look into the factual aspects of the matter again with respect to the applicability of the above two judgments of the Apex Court in the case of assessee and therefore, we are disposing of the present appeal of Revenue and remit the matter back to the Tribunal to decide the matter afresh in accordance with law, after hearing both parties on the applicability of the above cited two judgments of the Hon'ble Supreme Court of India. No costs."

3.Since the matter already stands remanded back to the First Appellate Authority by the order of the learned Tribunal, we are not inclined to make any observations on the merits of the case and the parties are directed to raise their rival contentions before the First Appellate Authority, accordingly, we dispose of the appeal and direct the First Appellate Authority will decide the case in accordance with law.

4.The Civil Miscellaneous Appeal is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. Customs, Excise and Service Tax
   Appellate Tribunal, South Zonal Bench,
   Shastri Bhavan Annexure,
   No.26, Haddows Road,
   Chennai - 600 006.

2. The Commissioner of Central Excise and Service Tax,
   No.1, Williams Road, Cantonment,
   Tiruchirappalli - 620 001.

+1cc to Mrs.R.Hemalatha, Advocate, S.R.No.5209

PPA(CO)
CS/02/03/2020