

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.1990 of 2017

The Commissioner of Customs
Chennai IV Commissionerate, Customs House
No.1, Rajaji Salai, Chennai 600 001. ... Appellant

-Vs-

M/s.AKS Timber & Ply Ltd
No.18, Periathambi Mudali Street
Choolai, Chennai 600 112. ... Respondent

For Appellant : Mr.T.Pramod Kumar Chopda
Senior Standing Counsel

For Respondent : No appearance

Prayer : Civil Miscellaneous Appeal under Section 130 of the
Customs Act to set aside the Final Order No.40306 of 2017 dated
20.02.2017 passed by the Customs, Excise and Service Tax
Appellate Tribunal, Chennai.

J U D G M E N T

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

The Revenue has filed the present appeal against the
short order of the Customs, Excise and Service Tax Appellate
Tribunal, Chennai dated 20.02.2017, whereby the learned
Tribunal, upholding the order dated 15.01.2013 passed by the
Commissioner of Customs (Appeals-II), Chennai, dismissed the
appeal filed by the Revenue as time barred.

2. Both the appellate authorities, did not decide the
merits of the case against the adjudication order, but
dismissed the appeal as time barred. The order of the
Commissioner of Customs (Appeals-II), Chennai dated 02.02.2010
is on record.

3. On consideration of the submissions made by the learned counsel on both sides and upon perusal of the relevant records and dates, we are of the opinion that the matter deserves to be remanded to Commissioner of Customs (Appeals-II), Chennai for deciding the appeal on merits.

4. Accordingly, the present Civil Miscellaneous Appeal filed by the Revenue is allowed for statistical purpose by setting aside the order of the learned Tribunal dated 20.02.2017 as well as the order passed by the Commissioner of Customs (Appeals-II), Chennai dated 15.01.2013. We remand the matter back to the Commissioner of Customs (Appeals-II), Chennai to decide the appeal on merits by giving an opportunity of hearing to both sides. With the above observations, the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KST
To

1. Customs, Excise and Service Tax Appellate Tribunal, Chennai.
2. Commissioner of Customs (Appeals-II), Chennai .
3. Commissioner of Customs
Chennai V Commissionerate, Customs House
No.1, Rajaji Salai, Chennai 600 001.

+1cc to Mr.T.Pramod Kumar chopra , Advocate SR.No. 5375

C.M.A.No.1990 of 2017

A.SK(28/02/2020)

सत्यमेव जयते

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