IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.9.2020

CORAM :

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.NOS.2423, 2425, 2427 & 2428 OF 2018

The Commissioner of GST & Central Excise,
Chennai South Commissionerate,
MHU Complex, No.692 Anna Salai,
Nandanam, Chennai 600 035.
.. Appellant/Respondent

v.

M/s.La Freight Lift Pvt. Ltd.,
Door No.32 & 32/A, 2nd Cross Street,
VGP Murphy Square, St.Thomas Mount,
Chennai 600 016, Tamil Nadu.
.. Respondent/Appellant

Civil Miscellaneous Appeal filed under Section 35G of the Central Excise Act, 1944, against the Common Final Order Nos.40464 to 40467 of 2018 dated 26.2.2018 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai in Appeal Nos.ST/507 to 510/2010-DB.

For Appellant : Mrs.Aparna Nandakumar
Sr. Standing Counsel

For Respondent : Mrs.Radhika Chandrasekhar
for Mr.K.Vaitheeswaran

COMMON JUDGMENT
(Delivered by Dr.Vineet Kothari, J.)

These Civil Miscellaneous Appeals have been filed by the Revenue, calling in question the correctness of the order passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, dated 26.2.2018, by raising the following substantial questions of law:

> "(i) Whether the CESTAT is correct in deciding the present case by applying the ratio of the decision

rendered by the Hon'ble Tribunal Mumbai in the case of Greenwich Meridian Logistics (India) Pvt. Ltd., when facts are wholly distinguishable and thereby allowing the appeals with consequential relief?

(ii) Whether the CESTAT is correct in overlooking the income earned under various heads by the respondent as Commission, Incentive, Discount, Brokerage, Charge collect fee, Rebate, etc. while erroneously holding that respondent herein is not liable to pay service tax?"

2. When the matters are 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 cases, the tax effect is said to be less than the monetary limit imposed and, therefore, the Appeals filed by the Revenue are dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk.

To:

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

2. The Commissioner of GST & Central Excise,
Chennai South Commissionerate,
MHU Complex, No.692 Anna Salai,
Nandanam, Chennai 600 035.v.

3. M/s.La Freight Lift Pvt. Ltd.,
Door No.32 & 32/A, 2nd Cross Street,
VGP Murphy Square, St.Thomas Mount,
Chennai 600 016, Tamil Nadu.

NRJK(CO)
CS/02/11/2020