In the High Court of Judicature at Madras

Dated : 18.3.2021

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Ms.Justice R.N.MANJULA

Civil Miscellaneous Appeal Nos.3222 of 2004 & 1250 of 2005

The Commissioner of Central
Excise, Chennai-I
121, Uthamar Gandhi Road,
Nungambakkam, Chennai-34

...Appellant in both the CMAs

Vs

1.M/s.Chennai Petroleum
Corporation Ltd., Manali Chennai-68

...Sole Respondent
in CMA.3222 of
2004 & R1 in
CMA.1250/2005

2.The Customs, Excise & Service
Tax Appellate Tribunal, South
Zonal Bench,Shastri Bhawan,
Annexe,1st floor, 26,Haddows Road,
Chennai.

...sole respondent
in CMA.1250 of 2005

APPEALS under Section 35G of the Central Excise Act, 1944 against the common Final Order Nos.154 & 155/2004 dated 17.2.2004 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant : Mr.Rajnish Pathiyil, SSC

For Respondent in
CMA.No.3222 of 2004: Mr.P.R.Ranganath for
Mr.R.Raghavan

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For Respondent in
CMA.No.1250 of 2005:   Mr.Muizz Ali

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

We have heard the learned Senior Standing Counsel for the appellant and the respective learned counsel appearing for the assessee.

2. The appeals were admitted respectively on 20.11.2004 and 18.4.2005 on the following substantial questions of law :

> "i. Whether the Tribunal is right in holding that once the first respondent passes on the duty burden at the time of clearance of kerosene and later a reimbursement is made by way of issuing credit notes will prove that the incidence of duty is not passed on and the first respondent are eligible for refund ? And
>
> ii. Whether the Tribunal is right in holding that the doctrine of unjust enrichment is not applicable for the reason that the refund is arising out of a specific notification viz 5/99 dated 28.2.99 and 6/2000 dated 1/3/2000 and is covered as refund of excise duty paid on inputs as per Clause (c) of 1st Proviso to Section 11B(2) of the Central Excise Act, 1944 when the refund claimed is actually duty paid on the finished goods namely kerosene ?"

3. In these appeals, the challenge is to the common order passed by the Tribunal arising out of an Order-in-Original, which commonly dealt with six individual refund claims and the same were rejected, as against which, the appeals were filed before the First Appellate Authority, who also rejected them. On appeal before the Tribunal by the assessee, the Tribunal allowed the appeals on facts. Therefore, no substantial question of law arises for consideration in these appeals.

4. Further, we note from the submissions of the learned counsel for the assessee that the individual claims for refund, which were allowed by the Tribunal, are below the monetary limit prescribed by the circular dated 22.8.2019 issued by the Central Board of Indirect Taxes and Customs. By the said Circular, the

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monetary limit for filing or pursuing any matter before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in these cases is less than the threshold limit.

5. In the light of the above, the above civil miscellaneous appeals are dismissed on the ground of low tax effect. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

RS

To
The Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

+1 CC TO M/S.MUIZZ ALI ADVOCATE SR.17469
+1 CC TO M/S.RAJNISH PATHIYIL ADVOCATE SR.17730
+1 CC TO M/S.R.RAGHAVAN ADVOCATE SR.17468

CMA.Nos.3222 of 2004
& 1250 of 2005

SSN(CO)
RG.1604.2021

HIGH COURT OF JUDICATURE MADRAS
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