IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM :

THE HON'BLE MR. JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.A.No.2243 of 2012

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

Vs.

1.M/s. The India Cements Ltd.,
Dalavoi Works, Cement Nagar Post,
Senthurai Taluk - PIN-621 730.

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

Prayer:Civil Miscellaneous Appeal filed under Section 35G(2) of Central Excise Act, 1944, against Final order No. 859 of 2011 dated 27.07.2011 (out of the Common Final Order No.859-976 of 2011, dated.27.07.2011 on the file of the Customs Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai 6.

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel

For R1 : No Appearance

J U D G M E N T
(Judgment was delivered by T.S. SIVAGNANAM, J.)

This appeal filed by Revenue under Section 35G(2) of Central Excise Act, 1944 ('the Act' for brevity), is directed against the Final order No. 859 of 2011, dated 27.07.2011, on the file of the Customs Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

2.The appeal has been admitted on 08.10.2012 on the following Substantial Questions of Law :

"1.Whether the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Madras in the Final Order No.859-976 of 2011 dated 27.07.2011 (Final Order Nos.859, 864, 889 and 893 of 2011 dated 27.07.2011 in these cases) was right in relying upon the decision of the Karnataka High Court

in CCE & ST, LTU, Bangalore Vs. ABB Ltd [2011 (23) STR 97 (Kar.)] holding that transportation charges incurred by the manufacturer for clearance of final product from place of removal, up to 01.04.2008 were included in the definition of "input service", especially in respect of the respondent?

2.Whether in view of the varying interpretation of the term 'ínput service' in various decisions, the CESTAT, Chennai was right interpreting the term in the manner as in the order?"

3.We have heard Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the appellant. Though, the 1st respondent have been served and their name is printed in the cause list, none appeared for the 1st respondent.

4.The learned Senior Standing Counsel for the appellant submitted a letter to the Registry stating that this appeal may be permitted to be withdrawn on the ground of Low Tax Effect, as per the monetary limits fixed by the National Litigation Policy.

5.The letter circulated by the learned Senior Standing Counsel is placed on the record and this Civil Miscellaneous Appeal is dismissed as withdrawn. Consequently, the Substantial Questions of law are left open. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Central Excise and Service Tax,
No.1, Williams Road, Contonment,
Tiruchirappalli – 620 001.

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

SSV(CO)
A.SK(26.10.2021)