IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.03.2021

Coram:

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Referred Case No.11 of 2008

Commissioner of Central Excise,
Chennai. ...Petitioner

Vs

1. Customs, Excise and Service Tax
Appellate Tribunal, South Zonal Bench,
Chennai - 6.

2. M/s.B.Beekamchand Sowcar ...Respondents

Statement of case referred under Section 82(B)(iii) of Gold (Control) Act by the Central Excise and Gold (Control)appellate Tribunal, South Regional Bench, Chennai in RCP No.19/1989 arising from he orders of the Central Excise and Gold (Control) Appellate Tribunal, South Regional Bench, Madras in Appeal No.G/174 of 1986(MAS) dated 10.11.1986 (Final Order No.858/1986) confirming the order of the Collector of Central Excise (Appeals), Madras in Order-in-Appeal No.130/1986(M)GC dated 30.06.1996 confirming the order of the Deputy Commissioner of Central Excise, Inspection II, Madras-34 in Order-in-Original No.C.No.XVII/8/10/85/GC dated 24.07.1985

For Petitioner : Mr.A.P.Srinivas, SSC

Judgment was delivered by T.S.SIVAGNANAM,J

We have heard the learned Senior Standing Counsel for the petitioner.

2. The referred application was filed by the Collector of Central Excise, Madras arising out Final Order No.858/86 dated 10.11.1986 on the file of the Customs, Excise and Gold (Control) Appellate Tribunal to answer the following questions:

"1.Whether the Tribunal is correct in holding that the question of making entry in the accounts of ornaments kept in the pawn broking premises meant for the purpose of sale does not arise in terms of Section 6(2)?

2. Whether the Tribunal is correct in upholding the claims of the 2nd respondent herein that in the context of the case, charges under Section 6(2) and Section 27(1) would not co-exist?"

3. A statement of case has been drawn in terms of Section 82 (B)(iii) of the Gold (Control) Act. The Gold (Control) Act stood repealed and consequently, no proceedings under the said enactment is pending before the Tribunal. In fact, the Tribunal has also been renamed as Customs, Excise and Service Tax Appellate Tribunal (CESTAT).

4. We have perused the materials from which we find that there was a reference made earlier to this Court in RCP.No.19 of 1989 on 14.12.1990. Considering the factual matrix of the case, we find that there is no question of law to be decided on merits as the Tribunal had granted relief by examining the facts. Accordingly, the Referred Case is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

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To

1. The Customs, Excise and Gold (Control)
Appellate Tribunal, South Zonal Bench, Chennai.

2. The Commissioner of Central Excise,
Chennai.

3.The Commissioner of Central Excise(Appeals),
Chennai.

4.The Deputy Collector (Inspection II) Central Excise,
Chennai.

R.C.No.11 of 2008
11.03.2021

GMI(CO)
KKN 19.04.2021