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.12 of 2008

Commissioner of Central Excise,
Coimbatore. ... Petitioner

Vs

1. M/s.Achutcha Vulcanising Cement (P) Ltd.

2. M/s.Santha Raghu Industrial Products ... Respondents

REFERRED CASE under Section 35H(1) of the Central Excise Act, 1944 against Final Order Nos.560 & 561 of 2001 dated 20.04.2001 on the file of the Customs, Excise and Gold (Control) Appellate Tribunal, South Zonal Bench, Chennai confirming the orders of the Commissioner of Customs and Central Excise (A), Trichy, dated 24.12.1998 in Order-in-Appeal Nos.180 and 181 of 1988 (CBE) reversing the orders passed by the Assistant Commissioner of Central Excise, Coimbatore Div.II, Coimbatore dated 21.05.1996 in Order-in-Original in C.Nos.V/35/30.04.1996 CF dated 21.05.1996 and V/40/30/97/96 CF dated 21.05.1996.

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. This referred case by the Revenue challenges the order passed by the Customs, Excise and Gold (Control) Appellate Tribunal, which decided the issue in favour of the assessee.

3. The referred case was filed by the Revenue by raising the following substantial questions of law :

> “1.Whether Modvat Credit could be allowed on the basis of a document not prescribed under Rule 57G of Central Excise Rules, 1944 and
>
> 2. Whether Modvat Credit could be allowed on the basis of a transaction where no sale is involved?"

4. The Revenue seeks to withdraw the case on account of low tax effect in terms of the circular dated 22.8.2019 issued by the Central Board of Indirect Taxes and Customs. By the said Circular, the 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 this case is less than the threshold limit.

5. In the light of the above, the referred case is dismissed on the ground of low tax effect and the substantial questions of law raised are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to file a petition before this Court to restore the matter to be heard and decided on merits.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

HVK

To

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

2. The Commissioner of Customs and Central Excise (Appeals)
Trichy.

3. The Commissioner of Central Excise, Coimbatore.

4. The Assistant Commissioner of Central Excise
Coimbatore Division II, Coimbatore.

R.C.No.12 of 2008

GMI(CO)
TE (23/04/2021)