In the High Court of Judicature at Madras

Dated : 27.01.2021

Coram :

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

Referred Case No.6 of 2008

Commissioner of Central Excise,
Coimbatore. ...Petitioner

Vs

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

2.M/s.Alamelu Balaji Spinning Mills (P) Ltd.,
Uthupalayam, Kanjapalli P.O.
Annur, Coimbatore Dist. ...Respondents

REFERRED CASE under Section 35H(1) of the Central Excise Act, 1944 against Final Order No.931/2001 dated 15.06.2001 on the file of the Customs, Excise and Gold (Control) Appellate Tribunal, South Zonal Bench, Chennai.

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 :

> *"Whether the Hon'ble CEGAT is correct in admitting the Modvat Credit on capital goods under Rule 57Q which are used in the manufacture of exempted final products and such final products, for the time being, exempt from the whole of duty leviable thereon or chargeable to nil rate of duty during the period from 1.3.1997 to 31.8.1997 i.e., before the insertion of the word 'exclusively' vide Notification No.46/1997 CE (NT) dated 1.9.1997?"*

4.The Revenue seeks to withdraw the case on account of low tax effect in terms of the circular dated 22.08.2019 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 question of law raised is 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.

(T.S.S.,J.) (R.N.M.,J.)
27.01.2021

abr

To

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

T.S.Sivagnanam, J.
and
R.N.Manjula, J.

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R.C.No.6 of 2008

27.02.2021