IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.M.A.Nos.2262 & 2263 of 2019

M/s.Automotive Coaches & Components Ltd.,
Gummudipoondi. .. Appellant in both Appeals

-vs-

Commissioner of GST & Central Excise,
Chennai Outer Commissionerate,
No.2054, 12th Main Road,
Newry Towers, Anna Nagar,
Chennai-600 040. .. Respondent in both Appeals

Appeals under Section 35G of the Central Excise Act, 1944 against the order dated 09.07.2018 made in Final Order Nos.41984-41985/2018 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant : No appearance
(In both Appeals)

For Respondent : Mr.Rajanish Pathiyil,
(In both Appeals) Standing Counsel

COMMON JUDGMENT
(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

These appeals have been filed by the appellant/assessee challenging the order dated 09.07.2018 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai in Final Order Nos.41984-41985/2018 allowing the appeal of the Revenue and rejecting the Cross Objection of the assessee.

2.The appeals were admitted, on 23.04.2019, on the following substantial questions of law:-

"(i) Whether, in the facts of this case, the Tribunal was correct in holding that there had been suppression of information relating to determination of value of tipper lorry and therefore, longer period of limitation will apply for confirmation of demand (together with mandatory penalty), even while the Tribunal did not go into the question as to whether the Section 4 value declared for clearance of tipper lorry was correct or not?

(ii) Whether or not it is incumbent on the Tribunal to remand the issue relating to determination of value (which has relevance on the issue of suppression) for tipper lorry to the First Appellate Authority when the said Authority has not decided the said issue in Order-in-Appeal Nos.20 and 21/2012 (M-II) both dated 22.3.2012, which the Tribunal also did not decide the issue in Final Order Nos.41984 and 41985/2018 dated 09.7.2018? and

(iii) Whether the Tribunal was correct in just saying that it did not find any infirmity in Order-in-Original Nos.15 and 16/2009 dated 05.8.2009 on the issue relating to overlapping demands in SCN.No.66/2006 dated 11.8.2006 and SCN.No.68/2006 dated 11.8.2006 without rendering any specific finding as to how it comes to such a conclusion?”

3.When the case was listed for hearing on 08.01.2021, Mr.P.R.Renganath, learned counsel submitted that the appellant-company is under liquidation and he is unable to contact the officials and prayed for adjournment. Subsequently, the case was listed on 11.02.2021, and further adjourned to 18.03.2021 on which date, we passed the following order:-

“The learned counsel for the appellant submitted that the appellant-company is in the process of liquidation and has given the requisite details of the Intimation of Appointment of Resolution Professional, Shri Subrata Monindranath Maity and has filed a memo to that effect.

2.We direct the learned counsel for the appellant to issue notice to the Resolution Professional about the pendency of these appeals and directing him to appear by himself or through the counsel on the next hearing date. The notice shall mention that it has been issued pursuant to the direction issued by this Court calling upon strict compliance of the direction.

3.Call this matter on 18.03.2021.”

4.In terms of the directions issued, the erstwhile counsel for the appellant-company has intimated the Insolvency Resolution Professional by sending notices by speed post as well as by e-mail and a memo of compliance dated 15.03.2021, complying the order dated 11.02.2021, has been filed. The said memo is taken on record.

5.Today, none appears for the appellant-company. Therefore, the appeals are dismissed for default. Consequently, the substantial questions of law are left open. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

1.Commissioner of GST & Central Excise,
Chennai Outer Commissionerate,
No.2054, 12th Main Road,
Newry Towers, Anna Nagar, Chennai-600 040.

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

+1cc to Mr.Rajanish Pathiyil, Advocate, S.R.No.17729

C.M.A.Nos.2262 & 2263 of 2019

SSN(CO)
KM(28/04/2021)