IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2021

CORAM :

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

Civil Miscellaneous Appeal No.2511 of 2016

Commissioner of Central Excise III,
121, Nungambakkam High Road,
Chennai - 600 034. ...Appellant

Vs

1.M/s.Visteon Automotive Systems India (P) Ltd.,
Keelkaranai Village,
SP Koil Post, Kancheepuram - 603 204.

2.Customs, Excise & Service Tax Appellate Tribunal,
South Zonal Bench,
Shasthri Bhawan Annexe, 1st Floor,
No.26, Haddows Road,
Chennai - 600 006. ...Respondents

Civil Miscellaneous Appeal filed under Section 35G of Central Excise Act, 1944 against the impugned order of the Hon'ble Tribunal in Final Order No.40049/2016 dated 07.01.2016 in Appeal No.E/236/2012-DB on the file of the Customs, Excise & Service Tax Appellate Tribunal, Chennai.

For Appellant : Mr.A.P.Srinivas

For Respondent: Mr.Raghavan Ramabadran for R1
R2- Tribunal

JUDGMENT

(Delivered by T.S.Sivagnanam,J)

This appeal filed by the appellant under Section 35G(2) of the Central Excise Act, 1944 read with Section 83 of Finance Act, 1994 is directed against the order dated 07.01.2016 made in Final Order No.40049/2016 passed by the Customs, Excise &

Service Tax Appellate Tribunal, Chennai ('the Tribunal' for brevity).

2.The appeal was admitted on 18.11.2016 on the following substantial question of law:

> “1.Whether the Tribunal is correct in setting aside the equal penalty imposed under Section 11AC of the Central Excise Act, 1944 when the fact of recovery of cost of tooling from the customer was not disclosed in the invoices and duty was paid by the assessee much later after the department's inspection only?”

3.We have heard Mr.A.P.Srinivas, learned counsel appearing for the appellant/Revenue and Mr.Raghavan Ramabadran, learned counsel appearing for the first respondent.

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 Civil Miscellaneous Appeal 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. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cse

To

1.Customs, Excise & Service Tax Appellate Tribunal,
South Zonal Bench,
Shasthri Bhawan Annexe, 1st Floor,
No.26, Haddows Road,
Chennai - 600 006.

2.Commissioner of Central Excise III,
121, Nungambakkam High Road,
Chennai - 600 034.

+1cc to Mr.LAKSHMI KUMARAN, Advocate, S.R.No.3587
+1cc to Mr.AP. SRINIVAS,Senior Standing counsel, S.R.No.3277

MG(CO)
SM/19/02/2021