IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

C.M.A. NO.682 OF 2016

Commissioner of Service Tax-II,
"Newry Towers", 12th Main Road,
2nd Avenue, Anna Nagar,
Chennai-600 040.

... Appellant/Respondent

Vs

M/s.Scientific Publishing Services Private Limited,
Nos.6 and 7, 5th Street,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

... Respondent/Appellant

Prayer: Civil Miscellaneous Appeal filed under Section 35G of the Central Excise Act, 1944 read with Section 83 of Finance Act 1994 against the Final Order No.40876/2015 dated 13.07.2015 of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai (CESTAT for short).

For Appellant : Mr.V.Sundareswaran
For Respondent : Mr.S.Jaikumar

JUDGMENT
Judgment was delivered by PUSHPA SATHYANARAYANA,J

We have heard the learned counsel on either side.

2.The Appeal filed by the Revenue challenges the common order passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, which decided the issue in favour of the assessee.

3.The Appeal is admitted on the following substantial questions of law:

"1.Whether the decision of CESTAT in allowing refund of Cenvat credit even without registration is correct?

2.Whether CESTAT is correct in not considering the safeguards, conditions and limitations as stipulated in the Appendix to Notification No.05/2006-CE(NT) dated 14.03.2006?

3.Whether CESTAT is correct in applying the ratio of the judgment of the Hon'ble Karnataka High Court in the case of M/s.mPortal Wireless Solutions Private Limited when the said judgment was not accepted on merits but due to low revenue effect "

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 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.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

srn

To
The Assistant Registrar,
Customs, Excise and Service Tax Appellate Tribunal,
South Zonal Bench,
Chennai.

+2ccs to Mr.V.Sundareswaran, Advocate, S.R.No.55506 & 55510

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SSI(CO)
RLP(09/12/2021)