IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

C.M.A.No.2982 of 2007

Commissioner of Service Tax,
No.692, MHU Complex, Anna Salai,
Nandanam, Chennai - 600 035.
... Appellant/ Respondent

Versus

1. M/s. Translanka Air Travels Private Ltd.,
Vijaya Towers,
No.4, Kodambakkam High Road,
Nungambakkam,
Chennai - 600 034. .. 1st Respondent/Appellant

2. Custom, Excise and Service Tax Appellate Tribunal,
South Zonal Bench,
Shasthri Bhavan Annexe,
1st Floor, No.26 Haddows Road,
Chennai - 600 006.
...2nd Respondent

Civil Miscellaneous Appeal filed under Section 35 (G) of the Central Excise Act, 1944 against the order dated 12.06.2007 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, in Final Order No.698 of 2007.

For Appellant	:	Mr.M.Santhana Raman Standing Counsel
For R1	:	No appearance

JUDGMENT
(Judgment of the Court was delivered by R. MAHADEVAN, J.)

This Civil Miscellaneous Appeal has been filed by the appellant / Revenue, challenging the order dated dated 12.06.2007 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, in Final Order No.698 of 2007.

2.By order dated 30.11.2007, this court admitted the aforesaid civil miscellaneous appeal on the following substantial question of law:

"Whether the decision of the Tribunal reducing the minimum mandatory penalty of Rs.86,23,705/- imposed under Section 78 to Rs.5 lakhs is correct when the liability of Service Tax confirmed is Rs.86,23,705/- and when the minimum mandatory penalty prescribed under Section 78 is equal to the duty confirmed which in this case is Rs.86,23,705/-"

3. When the matter was taken up for consideration, the learned standing counsel appearing for the appellant / Revenue brought to the notice of this court the instruction issued by the Central Board of Indirect Taxes & Customs (Judicial Cell), Ministry of Finance, Department of Revenue, New Delhi, in F.No.390/Misc/116/2017 - JC dated 22.08.2019, which was communicated by the Principal Chief Commissioner of GST & Central Excise, Tamil Nadu & Puducherry, in C.No.IV/16/404/2019-CCO (Legal) dated 23.08.2019, wherein, it is stated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore). It is also submitted that the tax effect in this appeal is less than the threshold limit.

4. In the light of the aforesaid submissions made by the learned standing counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial question of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Custom, Excise and Service Tax Appellate Tribunal,
South Zonal Bench,
Shasthri Bhavan Annexe,
1st Floor, No.26 Haddows Road,
Chennai - 600 006.

2. The Commissioner of Service Tax,
No.692, MHU Complex, Anna Salai,
Nandanam, Chennai - 600 035.

Copy to:
The Section Officer,VR Section,High Court,Madras

+1 cc to Mr.M.Santhana Raman, Advocate Sr.NO. 10339

C.M.A.No.2982 of 2007

MG(CO)
A.SK(14/03/2022)