IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

CORAM :

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

C.M.A.No.1546 of 2010
and
MP.No.1 of 2010

The Commissioner of Central Excise,
No.1, Foulk's Compound, Anai Road,
Salem - 636 001. ... Appellant

Versus

M/s. Kovai Maruthi Paper & Boards (P) Ltd.,
S.F.No.523/3A & 524/1, Irukkur,
Kabilarmalai (PO),
Namakkal - 637 204. ... Respondent

Civil Miscellaneous Appeal filed under Section 35G of the Central Excise Act, 1944 against the order dated 20.08.2009 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Regional Bench, Chennai, in Final Order No.1068/2009, in Appeal No.E/231/2003.

For Appellant : M/s.Hema Muralikrishnan
Senior Standing Counsel

For Respondent: M/s.P.Jayalakshmi
for M/s.M.N.Bharathi

JUDGMENT

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

This Civil Miscellaneous Appeal has been filed by the appellant challenging the order dated 20.08.2009 passed by the Customs, Excise and Service Tax Appellate Tribunal, in Final Order No.1068/2009, in Appeal No.E/231/2003.

2.By order dated 16.07.2010, this court admitted the aforesaid appeal on the following substantial questions of law:

"(i) In the facts and circumstances of the case, whether the Hon'ble Tribunal was right in holding that the case of CCE, Jalandhar vs. Khanna Paper Mills Ltd. reported in 2009 (93) RLT 135 (CESTAT, Del) is applicable to this case?

(ii) In the facts and circumstances of the case, whether the Hon'ble Tribunal was right in holding that the respondent can avail exemption on the quantity of goods manufactured out of the capital goods which was already used for availing the same exemption in the same financial year?

(iii) Whether the Tribunal was justified in dismissing the appeal by a non-speaking order without considering the factual positions and special features of the each case in detail as held by the Hon'ble Supreme Court in the matter of Commissioner of Central Excise, Bangalore vs. Sri Kumar Agencies & Others reported in (2009) 1 SCC 469?"

3.When the matter was taken up for consideration, the learned senior standing counsel appearing for the appellant sought permission of this Court to withdraw this appeal, in the light of monetary litigation policy as per the Instructions of 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. She has also made an endorsement to that effect.

4.Recording the above submission and endorsement made by the learned senior standing counsel appearing for the appellant, this civil miscellaneous appeal is dismissed as withdrawn. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1. The Customs, Excise and Service Tax Appellate Tribunal,
South Regional Bench,
Chennai.

2. The Commissioner of Central Excise,
No.1, Foulk's Compound, Anai Road,
Salem - 636 001.

+1cc to M/s.Hema Muralikrishnan, Advocate Sr.20780

C.M.A.No.1546 of 2010
and
MP.No.1 of 2010

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srg 21/04/2022