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.2738 OF 2015
AND
MP.NO.1 OF 2015

The Commissioner of Central Excise
Chennai II Commissionerate,
M.H.U.Complex,
No.692, Anna Salai,
Nandanam, Chennai 600 035.

... Appellant

Versus

1. The Customs Excise and Service Tax Appellate Tribunal,
   South Zone Bench,
   Shastri Bhavan Annex 1st floor,
   26, Haddows Road, Chennai 600 006.

2. M/s.Lucas TVS Ltd., Padi,
   Chennai - 600 050.

... Respondents

Civil Miscellaneous Appeal filed under Section 35 (G) of the Central Excise Act, 1944 against the order dated 19.02.2015 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, in Final Order No.40171 of 2015 in Appeal No. E/147/2008-SM.

For Appellant	:	Mr.A.P.Srinivas Senior Standing Counsel
For R2	:	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 19.02.2015 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai, in Final Order No.40171 of 2015 in Appeal No. E/147/2008-SM.

2.By order dated 21.01.2016, this court admitted the aforesaid civil miscellaneous appeal on the following substantial question of law:

> "Whether the Final Order passed is legally correct in holding that input service tax credit on services relating to the post manufacturing expenses beyond the place of removal is admissible to the manufacturer as "Input Service Tax Credit", by overlooking the statutory provision of Rule 2(1) of the Cenvat Credit Rules, 2004?"

3. When the matter was taken up for consideration, the learned senior 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 senior 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Customs Excise and Service
   Tax Appellate Tribunal,
   South Zone Bench,
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   26, Haddows Road, Chennai 600 006.

2. The Commissioner of Central Excise
   Chennai II Commissionerate,
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C.M.A.No.2738 of 2015 and MP.No.1 of 2015

KG(CO)
RLP(08/03/2022)