IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

C.M.A.Nos.1604 & 1605 of 2018

The Commissioner of Central Excise
No.1, Williams Road, Cantonment
Tiruchirapalli – 620 001
Tamil Nadu. .. Appellant in both CMAs

Vs.

M/s.Dalmia Cement (Bharat) Ltd.
Thamaraikulam Village
Sendurai Road, Ariyalur District
Ariyalur – 621 705. .. Respondent in both CMAs

Prayer in C.M.A.No.1604 of 2018: Appeal filed under Section 35G of the Central Excise Act, 1994, against the Final Order No.55530 of 2017 dated 10.07.2017 on the file of the CESTAT, South Zonal Bench, Chennai; and

Prayer in C.M.A.No.1605 of 2018: Appeal filed under Section 35G of the Central Excise Act, 1994, against the Final Order No.55531 of 2017 dated 10.07.2017 on the file of the CESTAT, South Zonal Bench, Chennai.

For the Appellant in both CMAs : Mr.A.P.Srinivas
Senior Standing Counsel

For the Respondent in both CMAs : Mr.S.Muthu Venkataraman

COMMON JUDGMENT

(Judgment of the Court was authored by R. SURESH KUMAR, J.)

These appeals were admitted on 16.07.2018 on the following substantial questions of law:-

> *"1. Whether the CESTAT was correct in allowing CENVAT Credit of Service Tax paid on outward freight beyond the factory/depot/place of removal, as the case may be, which is in contravention of the provisions of Rule 3 of the CENVAT Credit Rules, 2004, r/w. Rule 2(l)?*
>
> *2. Whether the Tribunal was correct in restraining the department in recovering such ineligible CENVAT Credit in terms of Rule 14 of the CENVAT Credit Rules, 2004, r/w. Section 11 A (1)(a) of the Central Excise Act, 1944, along with appropriate interest in terms of Rule 14 of the CENVAT Credit Rules, 2004, r/w. 11AA of the Central Excise Act, 1944.?"*

2. *Mr.A.P.Srinivas*, learned Senior Standing Counsel appearing for the appellant submits that both the appeals are covered under the monetary policy of the Government. Therefore, these cases may be disposed of, keeping open the questions of law raised in these appeals for determination at the appropriate stage.

3. Recording the same, these appeals stand dismissed as Low Tax Effect. There shall be no order as to costs.

(R.S.K., J.) (C.S.N, J)
20.11.2024

Neutral Citation:Yes/No

drm

R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.

(drm)

C.M.A.Nos.1604 & 1605 of 2018

20.11.2024