BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **10.02.2025**

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

C.M.A.(MD)No.386 of 2024
and
C.M.P.(MD)No.5132 of 2024

The Commissioner of Customs,
Customs House,
New Harbour Estate,
Tuticorin – 628 004. ... Petitioner

-Vs-

Venkatesh Textiles,
NO.82, Khan Palayam, 2nd Street,
Madurai – 625 009,
Tamil Nadu. ... Respondent

PRAYER: Appeal filed under Section 130 of the Customs Act, 1962, to allow the appeal and set aside the impugned common Final Order No.42382 of 2017 dated 26.10.2017 by the CESTAT, Chennai.

For Petitioner	:	Mr.N.Dilipkumar Senior Standing Counsel
For Respondent	:	Mr.G.Aravinthan

ORDER

DR.G.JAYACHANDRAN, J.
AND
R.POORNIMA, J.

For the alleged evasion of duty by undervaluation, the Director of Revenue Intelligence has issued a show cause notice to the respondent on 12.02.2008. Pursuant to that, the Commissioner of Customs, Tuticorin, has passed the order in original on 10.02.2009. Subsequently, the Commissioner of Customs & Central Excise (Appeal), Tiruchirappalli, has passed the order in Appeal No.90/2009, dated 30.11.2009. The said order in Appeal No.90/2009 is the subject matter before the CESTAT. Since preliminary objection regarding competency of DRI officials causing show cause under the Customs Act, 1962, was raised by the respondent in the said appeal, the CESTAT, after considering the law prevailing at that point of time, had disposed of the appeal with the following observations:-

> *"By following the ratio laid down by the Hon'ble High Court of Delhi in the case of* ***BSNL (Supra)*** *as well as by considering totality of facts and circumstances, we set aside the impugned order and remand the matter to the original adjudicating authority to first decide the issue of jurisdiction after the availability of Hon'ble Supreme Court decision in the case of* ***Mangli Impex*** *and then on merits of the case but by providing an opportunity to the*

assessee of being heard. Till the final decision, the ***status quo*** *will be maintained."*

Being aggrieved by the same, the present Civil Miscellaneous Appeal was laid before this Court.

2. When the matter is taken up for hearing for consideration by this Court today, it is brought to the notice of this Court by the learned standing counsel representing the Customs Department that the Hon'ble Supreme Court has disposed of ***Mangli Impex*** case holding the officials of DRI are competent to issue show cause notice under the Customs Act, 1962, and also permitted the Department to adjudicate the issue on merits. Therefore, the learned standing counsel appearing for the Customs Department informs this Court that he has been instructed by the Department to withdraw the appeal with liberty to proceed with adjudication on merits as directed by the Hon'ble Supreme Court in Review Application petition No.400/21 filed by the ***Commissioner of Customs vs. Canon India Private Limited (Mangli Impex Case)***. The communication from the Department dated 29.01.2025 is also placed before this Court for consideration.

3. In view of the above facts, the Customs Department is permitted to withdraw the appeal and proceed with the adjudication as per the Orders of the

Hon'ble Supreme Court in Review Application petition No.400/21 filed by the ***Commissioner of Customs vs. Canon India Private Limited (Mangli Impex Case)***. Accordingly, this civil miscellaneous appeal is dismissed as withdrawn. No costs. Consequently, connected miscellaneous petition is closed.

[G.J., J.] & [R.P., J.]
10.02.2025
(2/2)

NCC : Yes / No
Index : Yes / No
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DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

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Order made in
C.M.A.(MD)No.386 of 2024
(2/2)

Dated:
10.02.2025