IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CMA No. 735 of 2026 and CMA NO. 783 OF 2026
CMP NO. 8466 OF 2026,CMP NO. 8470 OF 2026,CMP NO. 8065 OF 2026,

TVS Motor Company Limited
Rep by its Authorized Signatory,
J. Manikandeswaran,
No.4, Harita, Hosur 635 126

..Appellant(s)-
Both Appeals

Vs

The Commissioner of GST and Central Excise
Salem Commissionerate,
No.1, Foulkes Compound,
Anai Road, Salem 636 001.

..Respondent(s)-
Both Appeals

CMA No. 735 of 2026:- To allow the present appeal and set aside the order passed by the Honble Customs, Excise and Service Tax Appellate Tribunal, Chennai, in the Impugned Final Order No. 40400/2025 in Excise Appeal No 42611/2017 dated 27.03.2025 and pass such other order or orders as this Honble Court.

CMA No. 783 of 2026:- To allow the present appeal and set aside the order passed by the Honble Customs, Excise and Service Tax Appellate Tribunal, Chennai, in the Impugned Final Order No. 40401/2025 in Excise Appeal No 42612/2017 dated 27.03.2025 and pass such other order or orders as this Honble Court.

For Appellant(s): Mr.Raghav Rajeev-Both Appeals

For Respondent(s): M/s.Rajendran Raghavan
Standing Counsel Takes-Both Appeals

Judgment

(Judgment of the Court was delivered by Dr.G.Jayachandran J.)

1. These Civil Miscellaneous Appeals are filed by the Assessee, being aggrieved by the Final Orders Nos.40400 and 40401 of 2025, dated 27.03.2025, passed in Excise Appeal Nos.42611 and 42612 of 2016, respectively, by the Customs, Excise and Service Tax Appellate Tribunal (herein after referred to as CESTAT).

2. The Appellant/Assessee, engaged in the manufacture of Two Wheelers and Three Wheelers at Hosur, Mysore and Himachal Pradesh, is clearing their final products directly to the Dealers, situated in various States and also through their subsidiary Company, for further sale to ultimate customers. The Assessee is extending discounts to the Dealers from the selling price and as they had encountered certain practical difficulties in quantifying the actual abatements at the time of removal of excisable goods from their factory gate, they had requested for Provisional Assessment, which was ordered by the jurisdictional Central Excise Authorities. The abatements, claimed by the Appellant, were not allowed by the Department.

3. Being aggrieved, the Appellant/Assessee had filed an appeal before the CESTAT, which by a final order, dated 04.02.2016 had held that the Appellant was eligible for the abatements claimed. Aggrieved by the same, the Department had filed an appeal before the lower Appellate Authority and

by the order, dated 14.09.2017, the said appeal was allowed in favour of the Revenue, setting aside the orders, granting refund to the Appellant on the ground that the claim of abatement had not been factually verified, as mandated by the Honourable Supreme Court, in the case of **Commissioner of Central Excise, Madras Vs. Addison and Co. Limited (2016 (339) ELT 177 (SC) ,** for a conclusive assertion as to who ultimately borne the burden of excise duty and whether incidence of duty has not been passed on at any stage till the stage of ultimate end user. As against the same, the Assessee had filed the present excise appeals before the CESTAT.

4. After considering a catena of judgements, particularly, the dictum laid down by the Honourable Supreme Court in the case of **Addison & Co. Limited,** the CESTAT, by the impugned order, had held that the presumption that the Dealers of the Appellant have passed the duty burden to the final customers to Motor Cycles/Auto needs to be rebutted. It was also made clear by the CESTAT that the verification to be carried out will not stop with the Appellant and its Dealers, but would extend to the final buyers of these goods. Ultimately, by the impugned order, the CESTAT had remanded the matter back to the Original Adjudicating Authority for fresh adjudication, giving liberty to the Appellant to produce all evidence as to who had ultimately borne the excise duty burden.

5. While arriving at the above conclusion, the CESTAT had also confirmed the decision of the lower appellate authority, regarding application of the dictum

laid down by the Honourable Supreme Court in the case of **Addison and Co. Limited,** and made clear that the Appellant had raised credit notes that the burden of duty has not been passed on. However, as originally the excise duty was paid at the time of sale of the Motor Cycles to the Dealers and further sales were effected by the Dealers to the ultimate customers, the incidence of excise duty burden must have been naturally passed on to the ultimate customers, which is the reasonable presumption in terms of Section 12B of the Central Excise Act, 1944.

6. The sum and substance of the findings is that if there is any plea contrary to the presumption laid under the Statute, then the burden is on the Assessee to place verifiable data to convince that the burden has not been passed on to the ultimate customers.

7. The contention of the learned counsel for the Appellant is that since there is an observation by the CESTAT that there is proof for non passing of benefit, there is no necessity for further verification of data. We are unable to countenance the said plea. There are two impediments to accept the said plea. Firstly, when there is a statutory presumption that the burden is passed on, that burden naturally had passed on to the ultimate customers. Here is a case, where the Appellant pleads otherwise, for which, there are lot of materials. The second impediment is that without verifiable data, the abatement claimed by the Appellant cannot be allowed. Therefore, the CESTAT had rightly remanded back the matter to the Assessing Authority to

follow the dictum laid down by the Honourable Supreme Court in the case of **Addison And Co. Limited** to pass appropriate orders. We find no substantial question of law to be framed in these Appeals for any discussion. Hence, these Appeals are liable to be dismissed.

8. In the result, these Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected CMPs are closed. The Assessing Authority concerned shall consider the matter, as directed by the CESTAT and pass appropriate orders, within a period of four months.

(G.J.,J.) (S.S.A.,J.)
21-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

SRCM

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AND
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