



C.M.A(MD)No.920 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2026

CORAM:

**THE HON'BLE MR JUSTICE N.ANAND VENKATESH
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

**C.M.A(MD)No.920 of 2022
and
CMP (MD) No.9022 of 2022**

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

... Appellant

Vs.

1. Customs, Excise and Service,
Tax Appellate Tribunal,
South Zonal Bench,
Shastri Bhavan,
1st Floor,
No.26, Haddows Road,
Chennai - 600 006.

2. M/s. Kurian Abraham (P) Limited,
No. 13/10-423,
M.S. Road,
Parvathipuram,
Nagercoil - 629 003.

... Respondents



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PRAYER:- Civil Miscellaneous Appeal filed under section 130 of The Customs Act to consider the above appeal and set aside the impugned order of the CESTAT in final Order No.41318/2017 dated 27.07.2017 or pass any such orders as this Honourable Court may deem fit and thus render justice.

For Appellant : Mr.R.Gowrishankar

For Respondents : Mr.Hari Radhakrishnan
for R2

J U D G M E N T

**(Judgment of the Court was made by
N.ANAND VENKATESH, J.)**

This appeal has been filed under Section 130 of The Customs Act to set aside the impugned order passed by CESTAT in final Order No.41318/2017, dated 27.07.2017.



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2. We have heard the submissions made on either side and the materials available on record.

3. The present case pertains to refund of special additional duty of customs under Notification No.102/2007-Customs, dated 14.09.2007. This Court had an opportunity to deal with the scope of this refund under the said notification in CMA (MD) No.256 of 2021 and after considering the matter in detail, this Court held that the appeal is not maintainable before this Court and the appeal can be filed only before the Apex Court under Section 130E of the Customs Act, 1962. The said order squarely covers the present case also.

4. In view of the above, this appeal is closed and it is left open to the department to file an appeal before the Supreme Court, if so advised and proceed further in accordance with law.



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5. The Registry is directed to return the original order passed by the CESTAT, Chennai, to the learned Standing Counsel for the department, to enable the department to file an appeal before the Apex Court. No costs. Consequently, connected miscellaneous petition is closed.

[N.A.V., J.] [K.K.R.K., J.]

26.03.2026

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NCC :Yes/No

Index :Yes/No

PKN

To

1.The Customs, Excise and Service
Tax Appellate Tribunal,
South Zonal Bench, Shastri Bhavan,
Ist Floor, No.26,
Haddows Road, Chennai - 600 006.

2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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N. ANAND VENKATESH,J.

AND

K.K.RAMAKRISHNAN,J.

PKN

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