CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI

Appeal No. C/294/2008

[Arising out of Order-in-Original No.7705/2008 dt. 16.05.2008 passed by the Commissioner of Customs (Seaport-Import), Chennai]

Commissioner of Customs (Import-Seaport)
Chennai — Appellant

Versus

Hutchison Essar South Ltd. — Respondent

Appearance:

Shri B. Balamurugan, AC (AR)
For the Appellant

Shri R. Srinivasan, Consultant
For the Respondent

CORAM :

Hon'ble Ms. Sulekha Beevi C.S. Member (Judicial)
Hon'ble Shri V. Padmanabhan, Member (Technical)

Date of hearing / decision : 22.06.2017

FINAL ORDER No. 41095/2017

Per Bench

This appeal is filed by Revenue against OIO No.7705/2008 dt. 16.05.2008. During the course of arguments, it was submitted that the appeal filed by M/s. Hutchison Essar South Ltd. (subsequently name changed to Vodafone Essar South Ltd.) against the very same impugned order was considered by this Tribunal and decided vide Final Order No.1031/2008 dt. 23.9.2008 and reported as 2009 (235) ELT

466 (Tri.-Chennai). In the above final order, the impugned order was set aside and appeal was allowed by way of remand to the adjudicating authority. Further to such remand order of the Tribunal, learned Commissioner of Customs passed the order in *de novo* proceedings vide OIO No.10117/2009 dt. 23.11.2009 and complied with the remand directions. Consequently, it was submitted that the present appeal filed by Revenue becomes infructuous.

2. Revenue was represented by Shri B. Balamurugan, D.R as well as Shri R. Srinivasan, Consultant represented the respondent.

3. After considering the records of the case and hearing both sides, we note that the Tribunal had occasion to consider the present impugned order in the appeal filed by the present respondent. Vide the Final Order dt. 23.9.2008, the impugned order was set aside the matter remanded for *de novo* decision to the adjudicating authority. Inasmuch as the adjudicating authority has also passed the order in *de novo* proceedings, the present appeal filed by Revenue becomes infructuous and hence is dismissed.

(Operative part of the order pronounced
in court on 22.06.2017)

(V.Padmanabhan)
Member (Technical)

(Sulekha Beevi C.S)
Member (Judicial)

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Customs, Excise & Service Tax Appellate Tribunal

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