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

C/EH/40552 to 40554/2015 and C/40511 to 40513/2015

(Arising out of Order-in-Appeal C. Cus. II No.401 to 403/2014 dated 24.12.2014 passed by the Commissioner of Customs (Appeals – II), Chennai)

M/s. M.M. Enterprises — Appellant

Vs.

Commissioner of Customs (Export), Chennai — Respondent

Appearance

Shri B. Satish Sundar, Advocate for the Appellant
Shri B. Balamurugan, AC (AR) for the Respondent

CORAM

Hon'ble Shri D.N. Panda, Judicial Member

Date of Hearing / Decision: **05.01.2016**

Final Order Nos. 40028 to 40030/2016

Learned counsel says that the issue involved in all the three appeals is whether refund of additional customs duty shall be allowed in respect of the imported goods suffering such duty when sold charging sales tax thereon issuing invoices not exhibiting amount of the duty on such invoices. He says that such issue is already settled by the Larger Bench in the case of Chowgule & Company Pvt. Ltd. Vs. Commissioner of Customs – 2014 (306) ELT 326 (Tri. – LB) in favour of assessees.

2. According to the relevant notification issued by the Government, additional customs duty is refunded when imported goods suffering additional duty of customs is sold in the domestic market charging

local or central sales tax as the case may be. The refund so granted is to bring the imported goods in par with domestic goods and make the imported goods competitive in the local market. In view of this object, exhibiting of no duty element in the invoice, the buyer of the goods is not permitted to take any duty credit thereby. Such principle is laid down by Larger Bench in the case of Chowgule & Company Pvt. Ltd. Vs. Commissioner of Customs (supra).

3. On the above premises, learned counsel prays that all the three appeals may be disposed ordering all the three miscellaneous applications filed for early hearing as infructuous.

4. Revenue supports orders of the authority below.

5. For the cooperation of both sides, to reduce pendency, all the three miscellaneous applications for early hearing are disposed as infructuous and appeals are heard and disposed by this common order.

6. The logical reason stated by learned counsel as above appeals to common sense and that being approved by the Larger Bench in the above case and also followed by this Bench vide Final Order No. 41669/2015 dated 11.12.2015 in the case of Midwest Gold Ltd. Vs. Commissioner of Customs, Chennai, all the three appeals are allowed.

(Dictated and pronounced in open court)

6/1/2016.

(D.N. Panda)
Judicial Member

Rex

Customs, Excise & Service Tax Appellate Tribunal

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