**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL**
**REGIONAL BENCH AT HYDERABAD**
Division Bench
Court – I

**Appeal No. E/3020/2012**

(Arising out of Order-in-Original No. 64/2012 CE dated 24.07.2012 passed by Commissioner of Central Excise, Customs and Service Tax, Guntur)

**Commissioner of Customs, Central Excise & Service Tax, Guntur** …..**Appellant(s)**

**Vs.**

**M/s Madras Cements Ltd.,** …..**Respondent(s)**

**Appearance**
Shri Jay Kumar, (AR) for the Appellant.
None for the Respondent.

**Coram:**
**Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)**
**Hon'ble Mr. C.J. MATHEW, MEMBER (TECHNICAL)**

**Date of Hearing: 20/02/2018**
**Date of Decision: 20/02/2018**

**FINAL ORDER No. A/30412/2018**

**[Order per: M.V. Ravindran]**

This appeal is filed by the Revenue against Order-in-Original No. 64/2012 CE dated 24.07.2012.

2. None appeared on behalf of the respondent despite notice. There is a letter on record received from the respondent's office seeking adjournment due to unavailability of the Counsel who supposes to argue the matter.

3. On perusal of records, we notice that the issue is in a very narrow compass and can be disposed of in the absence of any representation in the respondents, accordingly after rejecting the request for adjournment we take up the appeal for disposal.

4. Heard the Learned Departmental Representative and perused the records.

5. The issue that falls for consideration in this appeal is whether the respondent herein is a manufacture of cement and cleared the cement during the period April, 2007 to December, 2008 to SEZ developers. Respondent herein was availing CENVAT credit of the inputs which are used for manufacturing of such cement. It was the case of the Revenue in the show cause notice that the clearances affected to the SEZ developers would fall under the category of exempted clearances accordingly, the respondent having not maintained separate accounts for the inputs on which credit was availed for dutiable and exempted goods as their required to discharge 10%/8% of the value of clearances affected to SEZ

developers during the period. The Adjudicating Authority after considering the factual matrix and the law on the subject dropped the proceedings initiated by the show cause notice dated 22.02.2012.

6. Learned Departmental Representative reiterates the grounds of appeal.

7. On careful consideration of submissions made by Learned Departmental Representative and on perusal of records, we find that the factual matrix has recorded by us herein above is not in dispute. If that we so the law on the subject is under settled by the Tribunal in the case of *Sujana Metal Products Ltd.,* as reported at [2011 (273) ELT 112 (Tri-Bang.)] wherein it was held that clearances affected to SEZ developers during the period in question are to be treated as the export of dutiable goods and entitled to the benefits as such, including that of exception in Rule 6(6) of the CENVAT Credit Rules, 2004, of not requiring to maintain separate accounts of dutiable and non dutiable goods. The Revenue aggrieved by such an order of the Tribunal and preferred an appeal before the Hon'ble High Court of Andhra Pradesh in Central Excise appeal No. 40/2012; their lordships after hearing both sides, dismissed the appeal filed by the Revenue. The said dismissal is reported at [2016 (342) ELT A115 (A.P.)].

8. In view of the foregoing, and law is settled, we hold that the impugned order is correct and legal and does not require any interference.

9. The impugned order is upheld and the appeal is rejected.

(Operative part of this order was pronounced in open court on conclusion of hearing)

**C.J. MATHEW**
**MEMBER (TECHNICAL)**

**M.V. RAVINDRAN**
**MEMBER (JUDICIAL)**

Lakshmi….