

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 27TH DAY OF MARCH 2014

PRESENT

THE HON'BLE MR. JUSTICE DILIP B.BHOSALE

AND

THE HON'BLE MR. JUSTICE B.MANOHAR

C.S.T.A No.5/2011

BETWEEN :

COMMISSIONER OF CUSTOMS,
NEW CUSTOMS HOUSE,
PANAMBUR,
MANGALORE-575 010.

... APPELLANT

(BY SRI.S.NARENDRA, ADV. FOR
SRI.M.V.CHANDRASHEKARA REDDY, ADV.)

AND :

M/s. SRI SIDHI FREEZERS AND EXPORTERS PVT. LTD.,
CHURCH ROAD, GANGULI,
KUNDAPUR TALUK,
UDUPI DISTRICT-576216.

... RESPONDENT

(BY SRI.N.ANAND, ADV. FOR SRI.RAVISHANKAR, ADV.)

This CSTA is filed under Section 130 of the Customs Act, 1962, arising out of the order dated 18.10.2010 passed in Final Order No.1319/2010, praying to set aside the Final order No.1319/2010 dated

18.10.2010 passed by the CESTAT and to decide the question of law framed therein.

This CSTA coming on for Admission this day, **DILIP B.BHOSALE J.**, delivered the following:

JUDGMENT

Heard learned Advocates for the parties.

2. At the outset, Mr.N.Anand, learned Advocate for respondent, invited our attention to Instruction F.No.390/Misc./163/2010-JC dated 17.8.2011 issued by the Ministry of Finance (Department of Revenue), Central Board of Excise and Customs, New Delhi, Government of India under Section 35R of the Central Excise Act, 1944 to submit that since the amount of CESS involved in this appeal is less than the monetary limit prescribed under the aforementioned Instruction, which is ₹10,00,000/- insofar as the High Court is concerned, this appeal is not maintainable.

3. Having confronted with this, Mr.S.Narendra, learned Advocate for the appellant could not and did not dispute the submission advanced by learned Advocate for the respondent. However, he submitted that the questions raised in the present appeal may be kept open to be considered in appropriate proceedings.

4. In view thereof and considering the aforementioned Instruction issued by the Government of India dated 17.8.2011 under Section 35R of the Central Excise Act, we dismiss this appeal as not maintainable. The questions raised in the present appeal by the appellant is however kept open to be considered in appropriate proceedings.

Sd/-
JUDGE

Sd/-
JUDGE

Srl.