

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
SOUTH ZONAL BENCH, CHENNAI  
REGIONAL BENCH  
COURT NO. III**

**Customs Misc. Application No. 40065 of 2019  
(On behalf of the Respondent)**

**in  
Customs Appeal No. 40191 of 2014**

**Arising out of Order-in-Appeal C. Cus. No. 1565/2013, Dated: 31.10.2013  
Passed by the Commissioner of Customs (Appeals), Chennai**

**Date of Hearing: 27.03.2019**

**Date of Decision: 27.03.2019**

**COMMISSIONER OF CUSTOMS (AIR)  
CHENNAI, EXPORT COMPLEX  
CHENNAI**

**Vs**

**M/s INGRAM MICRO INDIA LTD  
CIPET HOSTEL ROAD, TVK INDUSTRIAL ESTATE  
MF 7, EKKADUTHANGAL, GUINDY, CHENNAI-600032**

**Appellant Rep by: Shri B Balamurugan, AC AR**

**Respondent Rep by: Shri L Nandakumar, AC AR**

**CORAM: Sulekha Beevi C S, Member (J)**

**Madhu Mohan Damodhar, Member (T)**

**Cus - The ROM application is filed by assessee seeking rectification of errors in the final order passed by Tribunal dated 16.11.2018 - It is seen that the Tribunal in para 6 as well as in para 12 has noted that the appeal filed by Fortune Marketing Ltd. before the Apex Court was dismissed as withdrawn on 13.1.2017 - On perusal of the order produced by assessee, Tribunal is convinced that this is an error apparent on the face of record, therefore same is to be rectified - The impugned order is modified to the extent of deleting the words "as withdrawn" in para 6 and 12 - The last sentence in para 6 is consequently deleted: CESTAT**

**ROM application allowed**

**FINAL ORDER NO. 40216/2019**

**Per: Sulekha Beevi:**

**The above ROM application is filed by the respondent seeking rectification of errors in the final order passed by the Tribunal dated 16.11.2018.**

**2. On behalf of the respondent, ld. counsel Shri S. Murugappan submitted that the last but one line in para 6 of impugned final order, the Tribunal has**

referred to the appeal filed by M/s. Fortune Marketing Ltd. before the Apex Court to be dismissed as withdrawn on 13.1.2017. He submitted that the appeal filed by Fortune Marketing Ltd. was dismissed by the Apex Court and it was not dismissed as withdrawn. In fact, the appeal filed by M/s. Ingram Micro India Ltd., the respondents herein, had been dismissed as withdrawn on 3.3.2017. Further, in para 12 also, it is seen stated that the appeal filed by M/s. Fortune Marketing Ltd. was dismissed as withdrawn pursuant to their ROM filed before Tribunal being allowed. The appeal filed by Fortune Marketing Ltd. having been dismissed and not dismissed as withdrawn, the error which is apparent on the face of record requires rectification.

3. The ld. AR Shri B. Balamurugan appeared for the department. He submitted that the only error is the observation of the Tribunal that the appeal filed by Fortune Marketing Ltd. has been dismissed as withdrawn. The words "withdrawn" if deleted, the rectification would be proper.

4. Heard both sides.

5. On perusal of the impugned order, it is seen that the Tribunal in para 6 as well as in para 12 has noted that the appeal filed by Fortune Marketing Ltd. before the Apex Court was dismissed as withdrawn on 13.1.2017. On perusal of the order produced by the ld. counsel, we are convinced that this is an error apparent on the face of record. We therefore hold that the same is to be rectified. The impugned order is modified to the extent of deleting the words "as withdrawn" in para 6 and 12. The last sentence in para 6 is consequently deleted. The ROM application is allowed in the above terms.

(Dictated and pronounced in open Court)