IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE: 12.07.2016
CORAM
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
W.P.No.23787 of 2016 &
WMP No.20388 of 2016

SCHWING Stetter (India) pvt. Ltd
rep. by its General Manager
(Finance & Accounts) Mr.K.Sethuraman .. Petitioner

Vs

1.The Commissioner of Central Excise
Large Taxpayer Unit
1775, Jawaharlal Nehur Inner Ring Road
Anna Nagar Western Extension
Chennai 600 101.

2.Union of India
rep. by its Secretary
Ministry of Finance
Department of Revenue, New Delhi. .. Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandamus to call for the records relating to the impugned order No.LTUC/168/2016 dated 31.03.2016, passed by the 1st respondent and quash the same.

For Petitioner : Mr.Raghavan Ramabatran for
Mr.Lakshmi Kumaran

For Respondents: Mr.A.P.Srinivas
Senior Panel Counsel

O R D E R

Heard Mr.Lakshmi Kumaran, learned Counsel appearing for the petitioner and Mr.A.P.Srinivas, learned Senior Panel Counsel appearing on behalf of the respondents and with the consent of learned counsel appearing on either side, this writ petition itself is taken up for final disposal.

2.The petitioner has filed this Writ Petition challenging the order in Original passed by the first respondent dated 31.03.2016, by which the first respondent has confirmed the demand of excise duty as well as the demand for interest and penalty.

3.This Court posed a question to the learned counsel for the petitioner as to why the petitioner has not availed the alternate remedy available under the Statute by filing an Appeal before the CESTAT.

4.The learned counsel for the petitioner submitted that the first respondent has committed a factual error and the order has proceeded totally on a wrong facts and with a revenue bias.

5.The grievance raised by the petitioner to justify their action in approaching this Court bypassing the Appeal remedy available is not tenable. The petitioner's case revolves on disputed questions of fact and the appeal remedy available to the petitioner is not only effective but an efficacious remedy. Therefore, this Court is not inclined to entertain the Writ Petition.

6.Accordingly, the Writ Petition stands dismissed on the ground that filing of an appeal is an effective and efficacious appellate remedy, before the CESTAT. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Rpa

To

1.The Commissioner of Central Excise
Large Taxpayer Unit
1775, Jawaharlal Nehur Inner Ring Road
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Chennai 600 001.

2.Union of India
rep. by its Secretary
Ministry of Finance
Department of Revenue, New Delhi.

1 cc to Mr.Lakshmikumaran, Advocate, sr.38883

W.P.No.23787 of 2016

ca co
kra 27.07.2016