IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.5302 of 2016 &

W.M.P.No.4640 of 2016

Commissioner of Punjai
Puliampatti Municipality
Sathyamangalam Taluk
Erode
Rep by its Commissioner
S. Sureshkumar .. Petitioner

Vs

1 Commissioner of Central Excise
Salem

2 The Assistant Registrar
Customs Excise & Service Tax Appellate Tribunal
No.26, Sashtri Bhavan
Annex Building
Haddows Road, Chennai 600 006.

3 Superintendent of Customs
Central Excise & Service Tax
Sathy Range
Sathyamangalam
.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to quash the impugned order of the 2nd respondent in final order No. 40432 and 40433/2014, dated 5.8.2014.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mr.V.Sundareswaran for R1 and R3

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorari to quash the impugned order of the second respondent in final order Nos. 40432 and 40433 of 2014, dated 5.8.2014.

2. By order dated 5.8.2014, the Customs Excise & Service Tax Appellate Tribunal dismissed the appeals finding that the conditional order of stay was not complied with by the petitioner.

3. Mr.V.Sundareswaran, learned Standing Counsel appearing for the respondents 1 and 3, on instructions, submitted that the petitioner had already complied with the conditional order passed by the Tribunal and paid a sum of Rs.4,00,000/- [Rupees four lakhs only] on 12.7.2014.

4. Mr.S.Raveekumar, learned Counsel appearing for the petitioner submitted that he has enclosed the necessary documents in the typed set of papers evidencing the payment of Rs.4,00,000/- [Rupees four lakhs only] by the petitioner in compliance of the conditional order. The learned Counsel further submitted that since the petitioner had already complied with the conditional order passed by the Tribunal, the order passed by the Tribunal is liable to be set side.

5. Mr.V.Sundareswaran, learned Standing Counsel appearing for the respondents 1 and 3, submitted that as against the order passed by the Tribunal only an appeal shall lie in view of the judgement reported in 2014(299) ELT 3 (DB) [Metal Weld Electrodes v. Customs Excise & Service Tax Appellate Tribunal, Chennai]. However, in the interest of justice, I am of the view that in order to avoid further delay in the matter, the impugned order passed by the Tribunal can be set aside and the matter can be remanded back to the Tribunal for fresh consideration.

6. Accordingly, the impugned order dated 5.8.2014 passed by the CESTAT is set aside and the Tribunal is directed to entertain the appeal and dispose of the same on merits and in accordance with law. However, I make it clear that the order passed in this writ petition shall not be cited as a precedent for entertaining the writ petition.

With these observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Rj

To

1 Commissioner of Central Excise
Salem

2 The Assistant Registrar
Customs Excise & Service Tax Appellate Tribunal
No.26, Sashtri Bhavan
Annex Building
Haddows Road, Chennai 600 006.

3 Superintendent of Customs
Central Excise & Service Tax
Sathy Range
Sathyamangalam

+1 cc to Mr.V.Sundareswaran Advocate sr.9844

+1 cc to Mr.S.Raveekumar Advocate sr.9776

W.P.No.5302 of 2016 &
W.M.P.No.4640 of 2016

aa25/02/2016