IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P No.8638 of 2017
and
W.M.P.Nos.9446 to 9448 of 2017

1. M/s.ICON House Hold Products (P) Ltd,
Rep by its Managing Director
Mr.D.Sivasankaran
Plot No.1656, 21st Main Road
Anna Nagar West, Chennai.

2. Mr.D.Sivasankaran
Plot No.1656, 21st Main Road
Anna Nagar West, Chennai. ... Petitioners

Vs

1. The Chairman
Central Board of Excise & Customs
North Block, New Delhi-110 001

2. The Commissioner
Central Excise & Service Tax
Guwahati.

3. The Deputy Commissioner
Central Excise & Service Tax
Sethi Trust Building, 6th Floor
G.S.Road, Bhangagarh
Guwahati

4. The Assistant Commissioner (Audit)
Central Excise & Service Tax
Guwahati.

5. The Governor
Reserve Bank of India
Chennai 600 001.

6. The Branch Manager
ICICI Bank Ltd.
A 78, Plot No.3211, 3rd Avenue
Anna Nagar, Chennai - 600 102.

7. The Branch Manager
HDFC Bank Ltd.
AG 21/23th Avenue
Shanthi Colony
Anna Nagar, Chennai - 600 040.

8. The Branch Manager
Kotak Mahindra Bank
Block Q-100, Plot No.3698
3rd Avenue, Anna Nagar
Chennai - 600 040.

9. The Branch Manager
Citi Bank
50, C P Ramaswamy Road
3rd Street, Abhiramipuram
Alwarpet, Chennai - 600 018. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari Mandamus, to call for the records in C.No. V (4) 16/Arrear /Tech-1/ ACG/2013/6933-6936 dated 19.10.2016 on the file of the 3rd respondent and quash the same and direct the respondents 6 to 9 to release the lien marked in the petitioners bank accounts in Account No.602701186929 ICICI Bank Anna Nagar Branch Chennai Account No. 00171000125787 HDFC Bank Anna Nagar Branch Chennai Account No.0511499300 Kotak Bank Anna Nagar Chennai Account No.5162139446 CITI Bank Alwarpet Branch Chennai and Account No.602705029826 ICICI Bank Anna Nagar Chennai in the name of ICON Household products P Ltd. Respectively.

For Petitioners : Mr.M.Vijayakumar

For Respondents : Mr.B.Rabu Manohar
Senior Central Govt. Standing Counsel
for R1 to R4

O R D E R

The petitioners are aggrieved by the orders of the third respondent for attaching their bank accounts maintained with respondents 6 to 9. The petitioners' case is largely based upon the order dated 17.09.2012 passed by the Customs Excise and Service Tax, Appellate Tribunal, East Regional Bench, Kolkata in Ex. Appeal No.682 of 2006 arising out of Order-in-Original No.20 of 2006 dated 30.08.2006 passed by the Commissioner of Central

Excise, Shillong. According to the petitioners, they have succeeded before the Tribunal and therefore, attaching the petitioner's bank account maintained with respondents 6 to 9 does not arise.

2.Admittedly, the entire cause of action has arisen outside the jurisdiction of this Court, in the sense that the order-in-original has been passed by the Commissioner of Central Excise, Shillong and the appeal was filed before the CESTAT, Kolkata, in which the petitioner states that they have fully succeeded and the attachment of the bank account maintained with respondents 6 to 9, has been made by the 3rd respondent whose office of which is situated in Guwahati.

3.In fact, more or less identical issue was adjudicated by the Division Bench of this Court in the case of M/s.Zeenath International Supplies Vs. The Commissioner and Ors. in Civil Miscellaneous Appeal No.1336 of 2006 dated 03.03.2014. Though the said case arose out of a CMA filed under Section 130 of the Customs Act, 1962, the Revenue argued the point with regard to the jurisdiction of the Court to entertain a writ petition by placing reliance on the decision in the case of M/s.Ambica Industries Vs. Commissioner of Central Excise, reported in (2007) 6 SCC 769; the decision of Full Bench of the Delhi High Court in the case of New India Assurance Co. Ltd. Vs. Union of India & Ors., reported in AIR 2010 Delhi 43; and the decision of the Special Bench of the High Court of Delhi constituted for reconsideration of the decision of the Full Bench of the High Court of Delhi, in the case of M/s.Sterling Agro Industries Ltd., vs. Union of India & Ors., reported in AIR 2011 Delhi 174, (SB).

4.The above decisions, if applied to the facts of the present case, the only conclusion that could be arrived would be to hold that writ petition is not maintainable before this Court.

5.In any event, the petitioners are now questioning the attachment of their bank account. All that they have to do now is to submit their objections with relevant documents to show that they are not due and liable to pay any Central Excise Duty and other duties or penalty.

6.For aforesaid reasons, the writ petition cannot be entertained. Hence, the writ petition is dismissed giving liberty to the petitioner to file their objections to the impugned attachment notices before the third respondent, who shall consider the same in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To

1. The Chairman
   Central Board of Excise & Customs
   North Block, New Delhi-110 001

2. The Commissioner
   Central Excise & Service Tax
   Guwahati.

3. The Deputy Commissioner
   Central Excise & Service Tax
   Sethi Trust Building, 6th Floor
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4. The Assistant Commissioner (Audit)
   Central Excise & Service Tax
   Guwahati.

5. The Governor
   Reserve Bank of India
   Chennai 600 001.

+ 1 cc to Mr.M.Vijayakumar Advocate,SR.72244

+ 1 cc to Mr.B.Rabu Manohar Advocate,SR.71382

W.P No.8638 of 2017

NRI(CO)
NR 10/11/2017