IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.07.2017

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THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.30483 of 2002

M/s.Rajanarayan Textile Exports,
Rep. by its Partner,
V.Thiagarajan,
Rajanarayan Towers,
70, Race Course,
Coimbatore 641 018. .. Petitioner

Vs

1.The Additional Commissioner of Customs,
Air Cargo Complex,
Meenambakkam, Chennai-27.

2.The Commissioner of Customs [Appeals],
Custom House, Chennai.

3.The Joint Secretary to Govt. of India,
Ministry of Finance,
Department of Revenue,
4th Floor, Jeevan Deep Sansad Marg,
Parliament Street, New Delhi 110 001. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the order passed by the 3rd respondent in Order No.70/2002 [F.No.373/75 DBK/2001 RA-Cus] dated 20.03.2002 and to quash the same as unsustainable, arbitrary and without authority of law.

For Petitioner	:	Mr.M.A.Mudimannan for Mr.K.Jayachandran
For Respondents	:	Mr.K.Magesh, Senior Panel Counsel

O R D E R

Heard Mr.M.A.Mudimannan, learned counsel appearing for the petitioner and Mr.K.Magesh, learned Senior Panel Counsel appearing for the respondents.

2. The petitioner has filed this writ petition challenging the order passed by the 3rd respondent dated 20.03.2002 which affirms the orders passed by the 2nd respondent namely, the Commissioner of Customs [Appeals] who had in turn confirmed the orders passed by the 1st respondent/the adjudicating authority.

3. Three fact finding authorities have held against this petitioner and this Court while exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, will not re-examine the factual position as if it is the Appellate Authority, over the finding of the Revisional Authority, namely, the 3rd respondent.

4. The petitioner's case itself rests upon M/s.Arun Processors Ltd./ petitioner in W.P.No.9789 of 1999. The said Writ Petition was filed to declare the petitioner therein [M/s.Arun Processors Ltd.] as a deemed exporter under Chapter 10 of Exim policy for the year 1997 to 2002 and consequently, hold that M/s.Arun Processors Ltd. has not obliged to debond the unit, while supplying the fabrics manufactured by them to garment exporters in India. In the said writ petition, it appears that an order of interim injunction was obtained.

5. Therefore, the petitioner's case is that General Notes 2 of the Notification No.67/98 as amended is deemed to have been suspended, because of the interim order and therefore, carrying out a process on job work basis by the writ petitioner in M/s.Arun Processors Ltd. cannot be treated as manufactured partly or wholly in a warehouse under Section 65 of the Customs Act.

6. Further, the case of the petitioner is that the 3rd respondent misunderstood the order of interim injunction granted by this Court in the writ petition filed by M/s.Arun Processors Ltd., which permitted them to have job work and when the Notification stood suspended by virtue of the interim order, the petitioner cannot be penalised.

7. The writ petitioner was heard by this Court on several days from August' 2016. Ultimately, in September' 2016, this Court directed the learned standing counsel for the respondent Department to get written instructions as to what happened to the writ petition filed by M/s.Arun Processors Ltd. When the

case is heard today, learned counsel for the respondent produced a copy of the order dated 15.11.2001, from which, it is seen that the writ petition filed by M/s.Arun Processors Ltd. has been dismissed with cost.

8. Thus, the entire interpretation based on which, the petitioner has founded his case has totally lost its efficacy and the only conclusion that has arrived at, that the petitioner has not made out a case for interference with the impugned orders. As pointed out earlier, this Court cannot substitute all the findings recorded by the two fact finding authorities and affirmed by a revisional authority.

9. For all the above reasons, no grounds are made out by the petitioner for interference with the impugned order and accordingly, the writ petition fails and dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Commissioner of Customs,
Air Cargo Complex,
Meenambakkam, Chennai-27.

2.The Commissioner of Customs [Appeals],
Custom House, Chennai.

3.The Joint Secretary to Govt. of India,
Ministry of Finance,
Department of Revenue,
4th Floor, Jeevan Deep Sansad Marg,
Parliament Street, New Delhi 110 001.

+1cc to M/s.K.Magesh, Advocate, S.R.No.48850
(standing counsel for Customs Excise&Service Tax)

W.P.No.30483 of 2002

AR(CS V)
CU(24/07/2017)