IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2017

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6731 of 2004

ANGLO FRENCH TEXTILES
PONDICHERRY 605 004. ... PETITIONER

Vs

1 UNION OF INDIA
REP BY ITS SECRETARY
MINISTRY OF FINANCE,
NEW DELHI.

2 UNION OF INDIA THROUGH THE
JOINT SECRETARY MINISTRY OF FINANCE
DEPARTMENT OF REVENUENEW DELHI.

3 COMMISSIONER OF CENTRAL EXCISE
26/1 MAHATMA GANDHI RD
CHENNAI.34. ... RESPONDENTS

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records connected with the order dated 18.12.2003 made in Order No.270/03 in F.No.195/132/2003 on the file of the 2nd respondent confirming the order dated 31.3.2003 passed by the 3rd respondent and to quash the order dated 18.12.2003.

For Petitioner : Mr.Krishnasrinivasan for
M/s. Ramasubramanian Associates
For Respondents: Mr.A.P.Srinivas for R1 to R4

O R D E R

This Writ Petition has been filed challenging the order passed by the The Joint Secretary to the Government of India, Ministry of Fincance (Department of Revenue), in Order No.270/2003 dated 18.12.2003, exercising revisional power under Section 35EE of the Central Excise Act, 1944.

2. Heard Mr.Krishnasrinivasan, learned counsel for the petitioner as well as Mr.A.P.Srinivas, learned Senior Standing counsel for the respondents.

3. The learned counsel for the petitioner would submit that impugned order has been challenged only on the ground of lack of jurisdiction. In support of his contention he placed reliance on the decision of High Court of Punjab & Haryana in a case in NVR Forgings Versus Union of India reported in 2016 (335) E.L.T. 679 (P & H).

4. The learned counsel appearing for the respondents, on the other hand would submit that the said decision has been rendered by the Punjab and Haryana High Court recently and the impugned order was passed much prior to the said decision.

5. I have carefully considered the submissions made by the learned counsel appearing on either side and also perused the materials available on record.

6. It has to be noted that the Punjab and Haryana High Court has considered the issue as to whether the respondent authority has the jurisdiction to act as a revisional authority over the order passed by the Appellate authority.

7. It is not in dispute that the said decision was put to challenge before the Hon'ble Supreme Court and the Special Leave to Appeal (C) .... CC 19063/2016 was dismissed on 17.10.2016. Thus, the said decision binds the respondent/ revenue and the question of jurisdiction having been gone into and held against revenue, which will affect the validity of the impugned order.

8. Though the impugned order was passed in the year 2003, on the said ground of lack of jurisdiction, the impugned order is liable to be set aside and accordingly the same is set aside and the Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vv/arr/tar

To

1 THE SECRETARY
MINISTRY OF FINANCE,
NEW DELHI.

2 THE JOINT SECRETARY
MINISTRY OF FINANCE
DEPARTMENT OF REVENUENEW DELHI.

3 COMMISSIONER OF CENTRAL EXCISE
26/1 MAHATMA GANDHI RD
CHENNAI.34.

+ 1 cc to M/s. Ramasubramanian, Associates SR.48333
+ 1 cc to Mr. A.P. Srirnivas, Advocate Sr.48385

W.P.No.6731 of 2004

SS(CO)
EU(05/10/2017)