IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2017

Coram:

The Hon'ble Mr. Justice T.S. Sivagnanam

W.P.No.2479 of 2007
and
W.P.M.P.No.2 of 2007

M/s. A. R. Metallurgicals Pvt. Ltd.,
Rep. by its Manager K. Riyaz Ahamed,
61st K.M. Bangalore - Krishnagiri Road,
Nallaganakothpalli Village,
Shoolagiri Block,
Hosur. ...Petitioner

Versus

1. The Commissioner of Central Excise,
Chennai III Commissionerate,
Mahathma Gandhi Road,
Nungambakkam,
Chennai.

2. Assistant Commissioner of Central Excise,
Hosur I Division,
Thally Road,
Hosur - 635 109. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Ceritiorarified Mandamus to call for the records on the files in C.No. IV/16/16/2005- Tech dated 24.03.2006 passed by the second respondent and to quash the same by directing the respondents to adjust the petitioner accumulated Credit amount towards the arrears amount.

For Petitioner : Mr. M. A. Abdul Wahab

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

ORDER

Heard Mr. M. A. Abdul Wahab, the learned counsel appearing for the petitioner and Mr. A. P. Srinivas, the learned Senior Panel Counsel appearing on behalf of the respondents.

2. The petitioner has defaulted in payment of Central Excise Duty. The second respondent passed an order dated 24.03.2006, stating that, the petitioner has failed to clear the arrears of Rs.71,54,493/- under Rule 8 of the Central Excise Rules, 2002, being the duty payable from October-2005 to January-2006. Therefore, it was ordered that the petitioner is put on consignment basis for the clearances to be effected with effect from 27.03.2006 in terms of Sub Rule 3(A) of Rule 8 of Central Excise Rules, 2002.

3. Thus, the petitioner was required to pay the Central Excise Duty on consignment basis, failing which, the petitioner was informed that the Central Value Added Tax (CENVAT) account will be forfeited or withdrawn with effect from 27.03.2006. Challenging the said order, dated 24.03.2006, the petitioner has filed this Writ Petition.

4. At the time, when the Writ Petition was admitted, i.e. on 22.01.2007, interim stay was granted, subject to the condition that the petitioner deposits 50% of the entire arrears. The petitioner has complied with the said conditional interim order and stay was confirmed.

5. In the light of the above, due to efflux of time, it may not be necessary to pass any orders, and as rightly pointed out, the period in question, for which, CET payable by the petitioner was also over. Therefore, the Writ Petition is closed, giving liberty to the petitioner to approach the second respondent if need arises to do so. No costs. Consequently, connected Miscellaneous Petition is closed.

sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

mrr

To

1. The Commissioner of Central Excise,
   Chennai III Commissionerate,
   Mahathma Gandhi Road,
   Nungambakkam,
   Chennai.

2. Assistant Commissioner of Central Excise,
   Hosur I Division,
   Thally Road,
   Hosur - 635 109.

+ 1 CC to Mr.A.P.Srinivas, Advocate sr.no.74293

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