IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.25919 of 2008
and M.P.No.1 of 2008

M/s.Sri Krishna Alloys,
Rep. by its Partner: N.Anbalagan,
No.262/1B-3, Manjakkalpatty,
Akkammapet Post, Sankari,
Salem District. .. Petitioner

..Vs..

1.Union of India,
Rep. by its Secretary to Government,
Ministry of Finance, Dept. of Revenue,
North Block, New Delhi.

2.The Commissioner of Central Excise,
No.1, Foulk's Road, Annai Medu,
Salem.

3.The Addl. Commissioner of Central Excise,
No.1, Foulk's Road, Annai Medu,
Salem. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, declaring Rule 8 of the Central Excise Valuation (Determination of Price of Goods) Rules, 2000 as notified under Notification No.45/2000-CE(NT) ultra vires Sect.4(1)(b) and Sec.37(2)((i) of the Central Excise Act, 1944 and unenforceable as ultra vires Art.14 and 19(1)(g) and Art.265 of the Constitution of India, in so far as the petitioner is concerned.

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 for Mr.K.Jayachandran, learned counsel appearing for the petitioner and Mr.K.Magesh, learned Senior Panel Counsel appearing for the respondents.

2.The petitioner seeks for declaring Rule 8 of the Central Excise Valuation (Determination of Price of Goods) Rules, 2000 as notified under Notification No.45/2000-CE(NT) ultra vires Sec.4(1)(b) and Sec.37(2)((i) of the Central Excise Act, 1944 and unenforceable as ultra vires Art.14 and 19(1)(g) and Art.265 of the Constitution of India, in so far as the petitioner is concerned.

3.The learned counsel appearing for the petitioner fairly submits that the validity of the Rule has been upheld and in this regard, reference was made to the decision in the case of Lakshmi Mills Co. Ltd., vs. Assistant Commissioner of Central Excise, Coimbatore-III reported in 2009 (245) ELT 126 (MAd). Therefore, the writ petition has to be dismissed.

4.In the light of the fact that in the assessee's own case in Civil Appeal Diary No.29432/2015 dated 05.10.2015, the Hon'ble Supreme Court dismissed the appeal filed by the Revenue and confirmed the order passed by the CESTAT in E/403 to 406/2005 dated 22.12.2014 wherein the CESTAT has allowed the appeals filed by the petitioner/assessee, the respondent is directed to abide the decision and direction issued by the CESTAT.

5.The writ petition is dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

/sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.Union of India,
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+1 CC to Mr. K. Jayachandran, Advocate Sr.No. 80342
+1 CC to Mr. K. Magesh, Advocate Sr.No. 80394

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ths: 29/11/2017