

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.21945 of 2004

&

W.P.M.P.No.26505 of 2004

Star Drugs & Research Labs Ltd.,
Rep. by its authorized signatory,
Mr.M.Thiagarajan, 14, Sipcot II,
Krishnagiri Road, Hosur - 635 109. ... Petitioner

Vs.

1. The Assistant Commissioner of
Central Excise, Hosur-I Division,
Thally Road, Hosur - 635 109.
2. The Commissioner of Central Excise,
Chennai-III Commissionerate,
Chennai. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records connected with the impugned demand notice dated 26.07.2004 and quash the same.

For Petitioner : No Appearance

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

O R D E R

The petitioner has challenged the demand notice issued by the respondent demanding payment of Central Excise duty.

2.Learned counsel for the petitioner submitted that they have returned the papers to the clients several years before.

3.The respondent has filed counter affidavit, and in paragraph No.12 the following stand has been taken:

"12.It is submitted that the Appeal petition against Order-in-Appeal Nos.4/02 & 77/02 (M-III) of

the Commissioner (Appeals) itself stands dismissed by the CESTAT on 28.10.2004 consequent to dismissal of application for condonation of delay in filing the appeal. Thus as on date there is no appeal pending with CESTAT against the original demand of unpaid duty and interest due from the petitioner for the months of April' 00 to July' 00 and for the duty and interest due for September' 00 & October' 00 and penalty of Rs.10,000/-".

4.From the above, it is seen that the appeal filed by the petitioner before the CESTAT has been dismissed. Thus, the original demand stands unassailed. Apart from that, the petitioner filed a writ petition in W.P.No.20556 of 2003, in which an order was passed on 13.10.2003, to pay a sum of Rs.5,00,000/- within a period of four weeks for giving one more opportunity to the petitioner and if he is still aggrieved, to workout his statutory remedies. Thus, the petitioner's appeal before the CESTAT having been dismissed, the question of quashing the impugned demand does not arise.

The writ petition is dismissed and the interim order is vacated. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

abr

To

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

2. The Commissioner of Central Excise,
Chennai-III Commissionerate,
Chennai.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.57869

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CS IV
CA(01/09/2017)