IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:17.07.2017

Coram:

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

W.P.No. 23110 of 2004

Sree Ramanjaneya Handloom & Power Loom Textiles
Training & Manufacturing Co.P.Ltd.,
Rep. by its Managing Director: Suryanarayan,
Dommasandra, via, Sarjapura,
Anekal Taluk,
Bangalore District. ...Petitioner

Versus

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

2. The Commissioner of Customs (Appeals)
Custom House,
Chennai.

3. The Joint Commissioner of Customs,
Gr.7, Custom House,
Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating to the order passed by the second respondent in order in Appeal in C.3/781/0/2003 SE A(C.Cus.245/2004) dated 31-03-2004 and quash the same as without authority of law, unconstitutional, contrary to the principles laid down by the Hon'ble Supreme Court in its decision reported in 2003 (158) ELT 545.

For petitioner	: Mr. M. A. Mudimannan for Mr. K. Jayachandran
For respondents	: Mr. A. P. Srinivas, Senior Panel Counsel

ORDER

Heard Mr. M. A. Mudimannan, the learned counsel appearing for the petitioner, and Mr. A. P. Srinivas, learned Senior Standing Counsel for the respondents.

2. The order, impugned in this Writ Petition is an appealable order, and Appeal lies to the Customs, Excise Service Tax Appellate Tribunal (CESTAT), and without resorting to the same, the petitioner has approached this Court. Though the Writ Petition is of the year, 2004, since factual aspects are involved, and interpretation of notification, *vis-a-vis* facts are required to be adjudicated, the petitioner should necessarily avail

the Appeal remedy, and merely because, the Writ Petition is pending before this Court from 2004, is not justification to by pass the Appeal remedy, which is not only effective, but also, efficacious.

3. For the above reasons, the Writ Petition is not maintainable. Accordingly, the Writ Petition stands dismissed. However, the petitioner is granted liberty to file Appeal before the CESTAT, and CESTAT, while computing the limitation on the Appeal filed by the petitioner, shall exclude the period from the date of filing of this Writ Petition, i.e., 09.08.2004 and till the date of issuance of a certified copy of this order, for the purpose of computing the limitation.

17.07.2017

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Index : Yes/No
Internet : Yes/No

Note to Registry: The original impugned order filed in support of this Writ Petition shall be returned to the counsel for the petitioner under acknowledgment.

To

1. The Union of India,
   Ministry of Finance, Dept. of Revenue,
   North Block,
   New Delhi.

2. The Commissioner of Customs (Appeals)
   Custom House,
   Chennai.

3. The Joint Commissioner of Customs,
   Gr.7, Custom House,
   Chennai.

T.S.Sivagnanam, J.

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