

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2017

CORAM

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

W.P.No.23015 of 2003

M/S.Perfect Control System,
Rep by its Prop.P.Mylsamy,
No.363-A, Sanganoor Road,
Ganapathy,
Coimbatore-641 006.

... Petitioner

Vs.

1.The Deputy Commissioner of Central Excise,
Coimbatore I Division,
182-185, Rajendra Prasad Road,
Coimbatore-641 012.

2. The Commissioner of Central Excise (Appeals),
Coimbatore.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the order dated 31.7.2003 passed by the second respondent order on modification petition to Misc.order No.3/2003-CE dated 21.05.2003 and to quash the same as arbitrary, unsustainable and illegal and further direct the second respondent to dispose of the appeal of the petitioner A.No.14/2002-CE, without insisting for any pre-deposit of duty or penalty.

For Petitioner : Mr.M.A.Mudimannan for
Mr.K.Jayachandran

For Respondents : Mr.K.S.Ramasamy
Junior Panel Counsel

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O R D E R

Heard Mr.M.A.Mudimannan for Mr.K.Jayachandran, appearing for the petitioner and Mr.K.S.Ramasamy, Standing Counsel for the respondents.

2.The petitioner has filed this writ petition challenging the order passed by the Commissioner of Central Excise (Appeals), Coimbatore dated 21.05.2003 passed under proviso 2 to Section 35F of the Central Excise Act, 1944. By the impugned

order, the Commissioner has directed the petitioner to deposit the entire duty of Rs.3,34,914/- for the appeal to be heard on merits. In this writ petition, the interim order was passed on 18.08.2003 directing the petitioner to deposit 50% of the said amount. This conditional order, having been complied with, the interim order was made absolute. Considering the fact that already 50% of the amount has been deposited, this Court is of the view that the interest of revenue will be protected sufficiently and the appeal could be heard and disposed of on merits.

3. Accordingly, the writ petition is partly allowed and taking note of the deposit of 50% made by the petitioner pursuant to the interim order granted in this writ petition, the Commissioner of Central Excise (Appeals) is directed to take the appeal on his file and decide the same on merits and in accordance with law, without insisting upon any further amount to be deposited. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Deputy Commissioner of Central Excise,
Coimbatore I Division,
182-185, Rajendra Prasad Road,
Coimbatore-641 012.

2. The Commissioner of Central Excise (Appeals),
Coimbatore.

+1 cc to Mr.K.S.Ramaswamy Advocate sr 47432

+1 cc to Mr.K.Jayachandran Advocate sr 47568

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