IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.19718 of 2006 & M.P.Nos.2 & 3 of 2006

M/s.Ambika Cotton Mills Limited,
Rep. by its Chairman Cum
Managing Director, Sri P.V.Chandran,
9-A, Valluvar Street, Sivanandha Colony,
Coimbatore-641 012. ... Petitioner

Vs.

1.Central Board of Excise & Customs of India,
Rep. by its Secretary to Government of India,
Ministry of Finance, Department of Revenue,
Central Secretariat, North block, New Delhi-110 001.

2.The Chief Commissioner of Central Excise,
6-7, A.T.D.Street, Race Course Road,
Coimbatore-641 018.

3.The Superintendent of Central Excise,
Dindigul I Range,
No.2/9H, N.G.O.Colony,
Dindigul-624 005. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the circular in F.No.137/10/2006-CS.4 dated 17th March 2006 of the 1st respondent and quash the same.

For Petitioner : Mr.M.P.Senthil Kumar

For Respondents : Mr.T.Promod Kumar Chopda,
Senior Panel Counsel

O R D E R

Heard Mr.M.P.Senthil Kumar, learned counsel for the petitioner and Mr.T.Promod Kumar Chopda, learned Senior Panel Counsel for the respondents.

2.The petitioner seeks for issuance of writ of certiorari to quash the Circular dated 17.03.2006, issued by the first respondent. The petitioner has approached this Court by way of this Writ petition challenging the Circular, when a show cause notice was issued to the respondent proposing to deny CENVAT credit as the Wind Mills were in no where connected in the manufacturing activity of the petitioner.

3.Identical issue was decided by the Hon'ble Division Bench of this Court in the case of M/s.Goyal v. Central Boad of Excise and Customs and another in W.P.No.17007 of 2008 dated 05.06.2015. In the said writ petition also an identical prayer was sought for. The writ petition was disposed of with an observation that "we do not want to dwell upon the issue as to whether the circular will be binding or not at this stage leaving it open to the petitioner to give a reply to the show cause notice within a period of thirty days from date of receipt of a copy of this order stating all his objections on merits as may be available and pursue the adjudication proceedings. We are not inclined to stall the adjudication proceedings pursuant to the show cause notice merely on a challenge to the circular in issue. All issues are left open to the writ petitioner."

4.Thus, by following the decision of the Hon'ble Division Bench of this Court, this writ petition is also disposed of on similar lines. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1 The Under Secretary to Government of India,
Central Board of Excise & Customs of India,
Ministry of Finance, Department of Revenue,
Central Secretariat, North block, New Delhi-110 001.

2.The Chief Commissioner of Central Excise,
6-7, A.T.D.Street, Race Course Road,
Coimbatore-641 018.

3.The Superintendent of Central Excise,
Dindigul I Range,
No.2/9H, N.G.O.Colony, Dindigul-624 005.

+1cc to Mr.T.Pramod Kumar Chobda, Advocate SR.No.69369
+1cc to M/s.Mallika Srinivasan, Advocate SR.No.69034 (28/11/17)

W.P.No.19718 of 2006

SDR--