

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2017

Coram

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

Writ Petition No.27374 of 2003
and
W.P.M.P.No.33423 of 2003

M/s. Meris Pharma(I) Pvt. Ltd.,
rep. by its Director Mr. R.M.Bairavan,
No.22, Chinna Salai, Rayampalayam,
Varichikudy,
Karaikal - 609 909.Petitioner

Vs.

1. Directorate General of Foreign Trade,
Ministry of Commerce,
Udyog Bhavan,
New Delhi.
2. Deputy Directorate General of
Foreign Trade,
Office of Directorate General of
Foreign Trade,
Udyog Bhavan,
New Delhi.
3. Commissioner of Customs,
Custom House, No.33, Rajaji Salai,
Chennai-600 001.
4. The Manager,
ICICI Bank Ltd.,
758, Anna Salai,
Chennai-600 002.
5. Foreign Trade Development Officer,
Ministry of Commerce,
Udyog Bhavan,
New Delhi.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the fifth respondent herein culminating in the communication F.No.20/11/92/EPCGIII/4203 dated 15.09.2003 passed by the fifth respondent herein and quash the same.

For Petitioner :Mr.S.Murugappan

For Respondents 1& 2 : Mr.J.Mathanagopal
Senior Standing Counsel
for Central Government

For Respondent-3 : Mr.S.Rajasekar

O R D E R

Heard Mr.S.Murugappan, the learned counsel appearing for the petitioner, Mr.J.Mathanagopal, learned Senior Standing Counsel for Central Government/first and second respondents, and Mr.S.Rajasekar, learned counsel for the third respondent.

2. The petitioner has filed this Writ Petition, challenging the demand notice issued by the fifth respondent, viz., Foreign Trading Development Officer, dated 15.09.2003, directing the petitioner to pay interest for non fulfilment of the export obligation in respect of EPCG licence granted to the petitioner, dated 14.08.1989. Parallely, the Commissioner of Customs also initiated proceedings, and passed an order, levying duty, and also penalty and interest. Challenging the same, the petitioner had preferred an Appeal before the Customs, Excise and Gold (Control) Appellate Tribunal (for short, 'Tribunal'), which was partly allowed, confirming the levy of duty, and setting aside the levy of penalty and interest. This decision is reported in (2004) 167 E.L.T. 53 (Tribunal Chennai). As against the said decision, the Revenue preferred Appeal before the Hon'ble Division Bench, and the Hon'ble Division Bench, by judgment, dated 06.12.2000, dismissed the Appeal, which decision is reported in (2010) 12 Tax Management India 1151 Madras.

3. Thus, in the light of the fact that, the issue involved in this Writ Petition having already been settled in the above referred decisions, the impugned order passed by the fifth respondent has to be held to be not sustainable.

4. In the result, this Writ Petition is allowed and the impugned order is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. Directorate General of Foreign Trade,
Ministry of Commerce,
Udyog Bhavan,
New Delhi.
 2. Deputy Directorate General of Foreign Trade,
Office of Directorate General of Foreign Trade,
Udyog Bhavan,
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 4. The Manager,
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758, Anna Salai,
Chennai-600 002.
 5. Foreign Trade Development Officer,
Ministry of Commerce,
Udyog Bhavan, New Delhi.
- + 1 cc to Mr. Murugappan, Advocate Sr.48144
+ 1 cc to Mr. Madanagopal Rao, Advocate SR.48135

Writ Petition No.27374 of 2003

MG(CO)
EU 21/08/17

सत्यमेव जयते

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