IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.9139 of 2006
And
W.P.M.P.No.10115 of 2006

Salem Textiles Ltd.,
Represented by its General Manager ... Petitioner

Vs.

1.Customs, Excise and Service Tax Appellate Tribunal,
Shastri Bhavan Annexe,
Haddows Road,
Chennai – 600 006.

2.Commissioner of Central Excise,
No.1, Foulks Compound, Anai Medu,
Salem – 636 001.

3.Deputy Commissioner of Central Excise,
Salem Division,
Anai Medu,
Salem – 636 001. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent culminating in his Stay Order No.158/2006 dated 23.02.2006 in Stay Application No.E/PD/567/04 in Appeal No.E/1082/04 and quash the same and direct the first respondent to dispose of the Appeal No.E/1082/04 on merits without any pre-deposit.

For Petitioner : Mr.Sasidharan
For Respondents : Mr.M.Magesh

O R D E R

The petitioner has filed this writ petition challenging the order passed by the CESTAT on the ground that there is no alternative appeal remedy available to the petitioner. This writ petition was admitted. During the pendancy of this writ petition, the very same issue was raised before the Hon'ble Division Bench of this Court in the case of ***Metal Weld Electrodes Vs. CESTAT, Chennai (2014 (299) E.L.T. 3 (Mad.))*** and the Hon'ble Division Bench has held that the order passed by the CESTAT in terms of Section 35F of the Central Excise Act, 1944, or Section 129E of the Customs Act, 1962, is appealable in terms of Section 35G of the Excise Act, 1944, or Section 130 of the Customs Act, 1962.

2.In view of the above, the writ petition is dismissed with liberty to the petitioner to work out their remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petition is also closed.

10.04.2018

pri
Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

Note: Registry is directed to return the impugned order to the learned counsel for the petitioner so as to enable the petitioner to file appeal before the Appellate Authority.

To

1.Customs, Excise and Service Tax Appellate Tribunal,
Shastri Bhavan Annexe,
Haddows Road,
Chennai – 600 006.

2.Commissioner of Central Excise,
No.1, Foulks Compound, Anai Medu,
Salem – 636 001.

3.Deputy Commissioner of Central Excise,
Salem Division,
Anai Medu,
Salem – 636 001.

M.DHANDAPANI,J.
pri

W.P.No.9139 of 2006
And
W.P.M.P.No.10115 of 2006

10.04.2018