IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2018

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.15930 of 2018 &
W.M.P.No.18929 of 2018

M/s.SLJT Textiles P Ltd
Rep by its Joint Managing Director
and the Authorized representative
V.Selvadurai
2F, Prince Arcade, 22A Cathedral Road
Chennai-600 086 .. Petitioner

v.

1 The Commissioner of Customs
& Central Excise Appeals
No.1 Williams Road
Contonement
Tiruchirapally-620001

2 The Assistant Commissioner of Central Excise
Central Excise -II Division
No.1 Williams Road
Contonement
Tiruchirapally-620001

3 The Principal Chief
Commissioner for GST & Central Excise
No. 26/1 MG Road
Chennai-600 034 .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call upon all the records pertaining to the Impugned Order-in- Appeal No.51/2018 TRY (CEX) dated 13.03.2018 on the file of the First Respondent herein, quash the same and consequently direct the second respondent herein to sanction the rebate of Rs.4,82,516/- along with interest from the date of payment of duty till date to the petitioner company.

For Petitioner : Mr.V.Niranjan
For Respondent : Ms.R.Hemalatha
Standing Counsel

ORDER

Heard Mr.V.Niranjan, learned counsel appearing for the petitioner and Ms. Ms.R.Hemalatha learned Standing Counsel, accepting notice on behalf of the respondents.

2. This court is not inclined to go into the merits of the matter, since the petitioner has effective alternative remedy under the provisions of the Act before the Central Government. Therefore, the petitioner should not by-pass such remedy, especially when the factual issue to be determined in the instance is whether the petitioner had double benefit or not.

3. The learned counsel appearing for the petitioner relied upon the order passed by this court in the case of M/s.Arthanari Loom Centre (Textile) v. The Commissioner of GST & Central Excise, Salem I Division made in W.P.No.29698 of 2016 etc., batch , dated 07.11.2017 and submitted that a similar order may be passed in the instant case also by remanding the matter to the original authority.

4. However, such a plea cannot be accepted, since in the case of M/s.Arthanari Loom Centre (Textile), the Revenue has stated that the decision in the case of M/s.Raghav Industries Limited , Tiruchengode v. Union of India made in W.P.No.1226 of 2016, dated 19.02.2016 is not applicable to the case of the assessee, therefore, the show cause notices were set aside and the department was granted liberty to proceed in accordance with law.

5. Thus, for the above reason, this writ petition is not maintainable and accordingly, it is dismissed. The petitioner is granted liberty to file a revision before the Central Government and if such revision is filed within sixty days from the date of receipt of a copy of this order, the revisional authority shall not reject the revision petition on the ground of limitation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

1 The Commissioner of Customs
& Central Excise Appeals
No.1 Williams Road
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Tiruchirapally-620001

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Central Excise -II Division
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3 The Principal Chief
Commissioner for GST & Central Excise
No. 26/1 MG Road
Chennai-600 034

+1cc to Mr.V.Niranjan, Advocate, S.R.No.41615
+1cc to Ms.R.Hemalatha, Advocate, S.R.No.41631

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CS/09/07/18