RA-CW-93 of 2017 in CWP No.12615 of 2016
M/s Ambika International vs. Union of India and another

And RA-CW-94 of 2017 in CWP No.12617 of 2016
RA-CW-95 of 2017 in CWP No.12616 of 2016
RA-CW-96 of 2017 in CWP No.12618 of 2016

Present: Mr.Tajender Kumar Joshi, Advocate for the applicant-Respondent No.2.

Mr. Vikram Nankani, Sr. Advocate with
Mr. Sanjay Aggarwal, Advocate and Mr. Suman Jain,
Advocate for the non-applicant-petitioner(s).

Ajay Kumar Mittal,ACJ.

1. This order shall dispose of Review Applications No.93 to 96 of 2017 in CWP Nos.12615, 12617, 12616 and 12618 of 2016 respectively as the issue involved in all the three petitions is identical. However, the facts are being taken from RA No.93 of 2017 in CWP No.12615 of 2016.

2. RA No.93 of 2017 has been filed by applicant-respondent No.2 – The Commissioner of Customs and Central Excise Commissionerate of Customs and Central Excise, Chandigarh under Article 226 of the Constitution of India read with Order XLVII Rule 1 of the Code of Civil Procedure for review of the order dated 17.06.2016, Annexure A.1 passed by this Court in CWP No.12615 of 2016 and other connected matters.

3. The petitioner-M/s Ambika International filed CWP No.12615 of 2016 challenging the order dated 19.5.2016, Annexure P.1 passed by respondent No.2 whereby differential Central Excise Duty demand of ₹67,08,07,614/- with interest and equivalent amount as penalty was confirmed. The petitioner contended that the impugned order had been passed in violation of Section 9D of the Central Excise Act, 1944 (in short, "the Act"). It was pleaded by the respondent authorities that the petitioner misused the provisions of notification dated 14.11.2002 by showing

production and clearance of excisable goods without actually manufacturing the said goods. Accordingly, a show cause notice dated 29.10.2012 for recovery of fraudulently availed refund of duty amounting to ₹67,08,07,614/- during the period from November 2007 to March 2010 and for treating the said amount deposited as representing duty of excise as amount required to be paid under the provisions of Section 11D of the Act was issued. After considering the matter, respondent No.2 passed the impugned order and confirmed the entire duty demand with interest and equivalent amount as penalty.

4. The writ petitions were listed on 17.6.2016 in urgent motion matters. No notice was given to respondent No.2 to file any reply who passed the impugned order. On the same day, after hearing learned counsel for the petitioner(s) and respondent No.1, the writ petitions were allowed and the impugned order dated 19.5..2016 passed by respondent No.2 was set aside.

5. After perusing the averments made in the review application and hearing learned counsel for the parties, all the four review applications are allowed. The order dated 17.06.2016 passed by this Court in all the four writ petitions is recalled.

6. List the main writ petitions on 18.7.2018 as per roster. Meanwhile, reply be filed by respondent No.2 as prayed and notice be issued to learned counsel for respondent No.1.

(Ajay Kumar Mittal)
Acting Chief Justice

May 11, 2018 (Amit Rawal)
'gs' Judge