

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.10386 of 2011
and MP.No.1 of 2011

M/s Sudhan Spinning Mills (P) Ltd
A Private Limited Company
Represented by its Director
Mr.K.Shanmugavel
Thadicombu - 624 709,
Dindigul, Tamil Nadu State.

...Petitioner

Vs

1.The Joint Secretary,
Government of India,
Ministry of Finance (Department of Revenue)
14, HUDCO Vishala Bldg., B Wing.,
6th Floor, Bhikaji Cama Place,
New Delhi - 110 066.

having their camp office at Chennai.

2.The Additional Commissioner of Central Excise,
Central Revenue Building,
Bibikulam, Madurai -2.

3.The Assistant Commissioner of Central Excise,
Dindigul I Division, No.68, Nehruji Nagar,
R.M.Colony Road,
Dindigul - 624 001.

... Respondents

Prayer: PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari to quash the impugned order in Order No.117-170/2011-CX dated 14.02.2011 as illegal and without jurisdiction.

For Petitioner : Mr.R.Sivaraman

For Respondents : Mr.T.Pramod Kumar Chopda

Senior Central Government Standing Counsel

ORDER

Both the learned counsel concur on the position that this issue is covered by two judgments of the Supreme Court in the case of H.C.L. Limited vs. Collector of Customs, New Delhi, (130

ELT 405) and Collector of Central Excise, Baroda vs. Indian Petro Chemicals, (92 ELT 13). The Full and Division Benches of the Supreme Court in the aforesaid matters have categorically confirmed the position that the option to elect and select the benefits provided under a Notification issued by the Central Excise authorities is clearly within the realm of choice of an assessee. An identical issue as arising in these matters, in regard to grant of rebate on the manufacture and export of Cotton Yarn has been considered by me in a batch of matters in W.P.(MD) Nos.4922 of 2011 & 4086 to 4107 of 2012, (order dated 01.08.2019).

2. In view of the aforesaid, the impugned order is set aside and the writ petition, allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

rkp

To

- 1.The Joint Secretary
Government of India,
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+1cc to Mr.T.Pramod Kumar Chopda, Advocate, S.R.No. 89934

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PA(CO)
GN(27/11/2019)