IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.10655 of 2015
and
M.P. Nos.2 & 3 of 2015

M/s.Greaves Cotton Limited
Having its Office at Lakshmi Chambers,
30, Anna Salai, Little Mount, Saidapet,
Chennai - 600 015.
Rep by its
Authorized Signatory
Mr.Mathilakath Atchuthan Anand ...Petitioner

Vs

1.The Union of India
Represented by its Secretary,
Ministry of Finance, North Block,
New Delhi - 110 001.

2.The Central Board of Excise and Customs,
Rep by its Chairman, North Block,
New Delhi - 110 001.

3.The Commissioner of Customs (Port),
Custom House, 151, Stand Road,
Kolkata.

4.The Commissioner of Customs,
Customs House,
Rajaji Salai, Chennai - 600 001.

5.The Member (Budget),
Central Board of Excise and Customs,
North Block,
New Delhi - 110 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorarified Mandamus, calling for the records in Modus Operandi Circular No.01/2014 dated 11.07.2014 passed by the 3rd Respondent and quash the same and consequently forbearing the respondents from denying the benefit under notification of Customs No.12/2012 dated 17.03.2012 to the petitioner in respect of import of Power Tillers and permit the Petitioner to clear the Power Tillers that are imported by availing the benefit of the Exemption notification Customs No.12/2012 dated 17.03.2012.

For Petitioner : M/s.Iyer and Thomas

For Respondents: Mr.A.P.Srinivas,
Senior Standing Counsel

O R D E R

The petitioner challenges a Modus Operandi Circular bearing No.1/2014 dated 11.07.2014 dealing with the subject of mis-declaration of 'Power Tillers' as 'Rotary Tillers with Diesel Engine/ standard accessories' ('goods in question') for availing exemption under Notification No.12/2012 dated 17.03.2012.

2. The tenor of the Circular is cautionary, bringing to note of all Chief Commissioners of Customs, Chennai, the evasion of duty by assessees who mis-declare the goods in question.

3. The petitioner at paragraph No.6 of the affidavit has submitted that its claim for certain benefits have been denied by the Custom House, Chennai, based on the impugned Modus Operandi Circular. However, details of such assessments, if at all made, have not been produced. Moreover, the petitioner would have to, in my view, only challenge the assessments itself, if any, on all grounds available to it and not the impugned Notification seeing as the latter is issued intra Department, with a view to caution the Officers of the Department of possible mis-declaration and render Instructions in that connection.

4. Designated authorities under the Customs Act are entitled to issue Instructions/Circulars/Notifications in relation to the manner and procedure of assessments and all matters connected and incidental thereto, and this can hardly be objected to by an assessee. The Writ Petition is thus dismissed in limine. Connected Miscellaneous Petitions are also dismissed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

rkp

To

1.The Secretary,
The Union of India,
Ministry of Finance, North Block,
New Delhi - 110 001.

2.The Central Board of Excise and Customs,
Rep by its Chairman, North Block,
New Delhi - 110 001.

3.The Commissioner of Customs (Port),
Custom House, 151, Stand Road,
Kolkata.

4.The Commissioner of Customs,
Customs House,
Rajaji Salai, Chennai - 600 001.

5.The Member (Budget),
Central Board of Excise and Customs,
North Block, New Delhi -110 001.

+1cc to Mr.Karthik Seshadri, Advocate, S.R.No. 82098
+1cc to Mr.A.P.Srinivas, Advocate, S.R.No. 81061

W.P.No.10655 of 2015
and M.P. Nos. 2 & 3 of 2015

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