

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 08.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.36112 to 36114 of 2002

& W.M.P.Nos.6644 to 6646 of 2018

M/s.Nortan Intec
Rubbers Pvt. Ltd.,
No.4-A, SIPCOT Indl. Complex,
Gummidipoondi 601 201.Petitioner in all Writ petitions

Vs

1. Customs, Excise & Gold (Control)
Appellate Tribunal, Sasthri Bhavan,
Haddows Road,
Chennai 600 006.
2. The Commissioner of Central Excise,
Thiruchirappali,
No.1, Fort William Road,
Thiruchirappali.
3. The Assistant Commissioner
of Central Excise, Division No.1,
Vallalar Nagar, Manjakuppam,
Cuddalore - 607 001.
4. The Superintendent of
Central Excise, Range III,
167/14, Bashyam Nagar,
Manjakuppam,
Cuddalore - 607 001.

....Respondents in all the Writ petitions

Prayer in W.P.No.36112 of 2002: Writ Petition filed under Article 226 of the Constitution of India to pass an order of Writ of Certiorari, calling for the records of final order No.1925/2001 dated 06.11.2001 in Appeal No.993/2000/Mas on the files of the first respondent and quash the same.

Prayer in W.P.No.36113 of 2002: Writ Petition filed under Article 226 of the Constitution of India to pass an order of Writ of Certiorari, calling for the records of the impugned order No.24/2002, dated 03.01.2002 in E/ROA/128/2001 in Appeal No.E/993/2000/Mas received by the petitioner on 12.07.2002 and quash the same.

Prayer in W.P.No.36114 of 2002: Writ Petition filed under Article 226 of the Constitution of India to pass an order of Writ of Certiorarified Mandamus, calling for the records of Mis. order 246/2001 dated 24.08.2001 in Appeal No.E/993/2000/Mas on the files of the first respondent and quash the same and direct the first respondent to re-hear E/Stay Application No.493/2000 in Appeal No.993/2000/Mas afresh.

For Petitioner : Mrs.S.Thenmozhi
in all W.Ps

For Respondents : Mr.V.Sundareswaran
in all W.Ps Senior Standing counsel

C O M M O N O R D E R

The issue involved in the writ petitions revolves around the order dated 06.11.2001, dismissing the petitioner's appeal for non compliance of the said order made under Section 35 F of the Central Excise Act.

2. It is the submission of the learned counsel for the petitioner that pending these writ petitions, the Hon'ble Supreme Court of India in the case of M/s.Nebulae Health care Ltd Vs Commissioner, Chennai reported in 2015(325)ELT431(SC) had rendered a decision in favour of the petitioner herein and as such, the orders impugned in the present writ petitions require reconsideration.

3. The learned standing counsel for the respondents submitted that the final order in the writ petition is for non compliance of the said order, since the petitioner had failed to make the deposit in time, as such, he should not be extended the opportunity.

4. In my view, the issue as to whether the petitioner is entitled for the relief which he seeks for, can be reconsidered by the first respondent, in view of the subsequent development, which the petitioner claims to be in his favour.

5. It is made clear that this Court has not expressed any of its views with regard to the applicability of the decision rendered by the the Hon'ble Apex Court to the petitioner's case and that the Tribunal would be in its own liberty to arrive at a conclusion.

6. In the light of the aforesaid observations, the order dated 06.11.2001, 24.08.2001 and 03.01.2002 made in final order Nos.1925/2001, Mis. order No. 246/2001, impugned order No.24/2002 in Appeal No.993/2000/Mas respectively on the file of the first respondent are set aside and the matter is remanded back to the first respondent for fresh consideration.

7. The petitioner is at liberty to file an application, raising additional grounds before the first respondent touching upon the subsequent development. On receipt of such representation, the first respondent shall pass appropriate orders on its own merits and in accordance with law, as expeditiously as possible.

8. With the above observations, the writ petitions stand disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1. Customs, Excise & Gold (Control)
Appellate Tribunal, Sasthi Bhavan,
Haddows Road,
Chennai 600 006.
2. The Commissioner of Central Excise,
Thiruchirappali,
No.1, Fort William Road,
Thiruchirappali.

3. The Assistant Commissioner
of Central Excise, Division No.1,
Vallalar Nagar, Manjakuppam,
Cuddalore - 607 001.

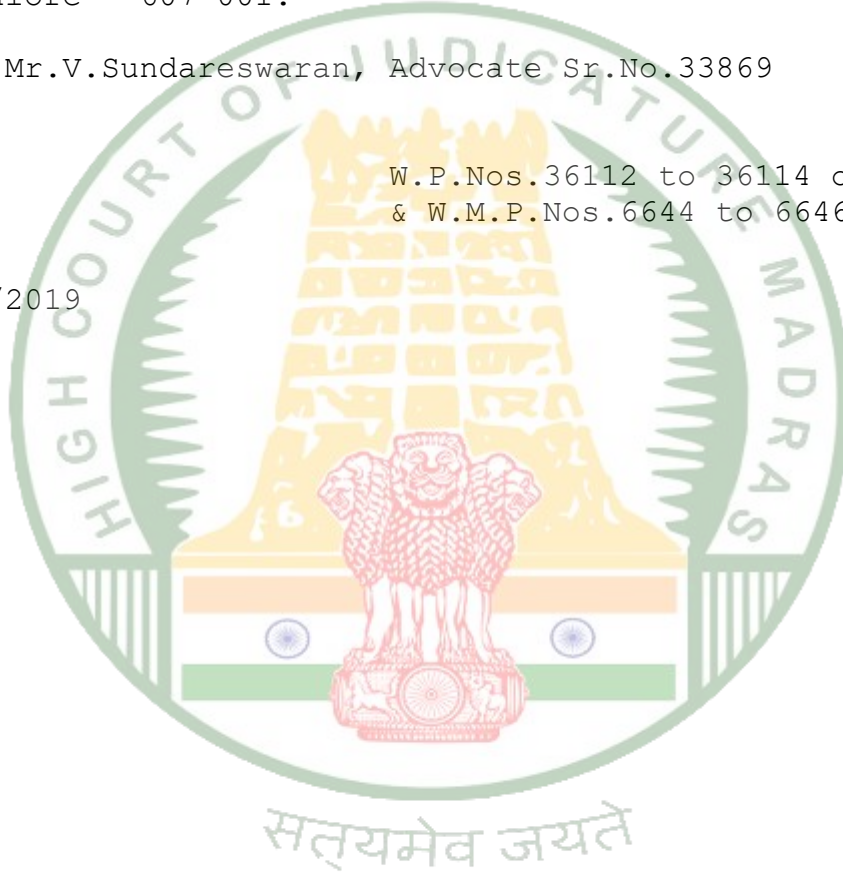
4. The Superintendent of
Central Excise, Range III,
167/14, Bashyam Nagar,
Manjakuppam,
Cuddalore - 607 001.

+ 1 cc to Mr.V.Sundareswaran, Advocate Sr.No.33869

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NA(CO)

RRI 08/06/2019



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