IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.10985 of 2005 and
W.M.P.Nos.11953, 29324 of 2005
and 5591 of 2019

M/s.Transasia Bio-Medicals Ltd.
Rep. by its Vice President
Mr.Sanjeev Malhotra,Transasia House,
No.8, Chandivali Studio Road,
Mumbai - 400 072. ...Petitioner

Vs

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

2. The Deputy Commissioner of Customs
Group - 5C, AIR CARGO COMPLEX,
Meenambakkam, Chennai - 600 027. ...Respondents

Prayer in W.P.No.10985 of 2005:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to delete the Tariff Entry No.902780 from the Notification No.24/2005 - Cus Dated 01.03.2005.

Prayer in M.P.No.5591 of 2019:- To amend the prayer in the writ petition to declare that Notification No.24/2005-Cus Dated 01.03.2005 in ultra vires the provisions of the Customs Act, 1962, - instead of Writ of Mandamus, directing the 1st respondent to delete the Tariff Entry No.902780 from the Notification No.24/2005 Cus. dated 01.03.2005.

For Petitioner : Mr.Hari Radhakrishnan
For Respondents : Mr.T.Pramod Kumar Chopda
Senior Panel Counsel

ORDER

The petitioner herein has filed the miscellaneous petition in W.M.P.No.5591 of 2019 to amend the prayer in the writ petition from the writ of Mandamus to Writ of Declaration, to declare that the Notification No.24/2005-Cus Dated 01.03.2005 in ultra vires the provisions of the Customs Act, 1962, - instead of Writ of Mandamus, directing the 1st respondent to delete the Tariff Entry No.902780 from the Notification No.24/2005 Cus. dated 01.03.2005.

2. In my view, the prayer sought for in the miscellaneous petition requires to be meted out with appropriate grounds and the respondent herein should also be given an opportunity to put forth their objections by way of a counter affidavit. At this stage of final disposal of the writ petition, such an amendment cannot be sought for. If at all, the petitioner is of the view that the writ of declaration can be maintained, it is always open to them to work out their remedies in accordance with law.

3. In view of the above, the miscellaneous petition stands dismissed. Consequently, since the petitioner expressed his views to file a writ of Declaration, consideration of the relief sought for in the present writ petition does not require consideration. Hence, the writ petition stands closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Union of India Rep. by
Its Secretary, Ministry of Finance,
Department of Revenue, North Block, New Delhi 1

2. The Deputy Commissioner of Customs
(Group - 5C-AIR CARGO COMPLEX),
Meenambakkam Air Port, Chennai - 600 027.

+1cc to Mr.Hari Radhakrishnan, Advocate, S.R.No.49852
+1cc to Mr.T.Pramod Kumar Chopda, Advocate, S.R.No.49671

W.P.No.10985 of 2005 and
W.M.P.Nos.11953, 29324 of 2005
and 5591 of 2019

EU(CO)
CS/28/08/2019