IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM:
THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.31316 of 2005
and
W.M.P.Nos.34319, 34320 of 2005
& 5602 of 2019

M/s.Transasia Bio-Medicals Ltd,
Rep. by its Zonal Manager,
Mr.Rajesh O.T.
No.3/5, Raghupriya Apt,
3, Krishnama Road,
Nungambakkam, Chennai - 34. ...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 Air Port,
Chennai - 600 027. ...Respondents

Prayer in W.P.No.31316 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 W.M.P.No.5602 of 2019: To amend the prayer in the writ petition to declare that Notification No.24/2005-Cus Dated 01.03.2005 is 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.S.S.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.5602 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 is ultra vires 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 to such fresh grounds, by way of a counter affidavit. At this stage of final disposal of the writ petition, such an amendment cannot be granted. If at all, the petitioner is of the view that a writ of declaration requires to be initiated, it is always open to them to work out their remedies in accordance with law.

3. In view of the above, the miscellaneous petition in W.M.P.No.5602 of 2019 stands dismissed. Consequently, since the petitioner expressed his views to file a writ of Declaration, the relief sought for in the present writ petition does not require consideration. Hence, the writ petition also stands closed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

vum

To

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 Air Port,
   Chennai - 600 027.

+1cc to Mr.Hari Radhakrishnan, Advocate, S.R.No. 52685
+1cc to Mr.T.Pramod Kumar, Advocate, S.R.No. 52244

W.P.No.31316 of 2005 &
W.M.P.Nos.34319 &
34320 of 2005
and 5602 of 2019

NRL(CO)
GN(08/08/2019)