IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 27.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.4230 of 2010
and
M.P.No.1 of 2010

M/s.Ultimate Alloys (Pvt) Ltd.,
Rep. by its Director
P.Balasubramaniam,
S.F.No.138/1-A,B,C,
Kannampalayam Village,
Trichy Road, Sulur,
Coimbatore. ...Petitioner

Vs

1. The Member (Central Excise),
Central Board of Excise and Customs,
Dept. of Revenue, Ministry of Finance,
Govt. of India, New Delhi.

2. The Chief Commissioner of Central Excise,
6/7, A.T.D. Street, Race Course,
Coimbatore - 641018.

3. The Commissioner of Central Excise,
6/7, A.T.D. Street, Race Course,
Coimbatore - 641018.

4. The Additional Commissioner of Central Excise,
6/7, A.T.D. Street, Race Course,
Coimbatore - 641018.

5. The Joint Commissioner of Central Excise (CC),
6/7, A.T.D. Street, Race Course,
Coimbatore - 641018. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records relating to the proceedings of the 1st respondent 07/2010-M/(CX)/DA dated 08.02.2010 and quash the same.

For Petitioner : Mr.S.Ravee Kumar

For Respondents: Mr.P.Rajkumar Jhabakh

O R D E R

When a Show Cause Notice was issued on 23.01.2009 proposing recovery and penalty under Rule 14 and 15 of CENVAT Credit Rules, the petitioner had filed his objections with a request for cross examination. In these circumstances, an order came to be passed by the 4th respondent herein based on the restrictions imposed in Notification No.32/2006 dated 30.12.2006. As against the same, the petitioner had filed an appeal before the CESTAT. The petitioner's appeal came to be allowed and the order of the 4th respondent was set aside.

2. Apart from this aspect, it is now brought to the notice of the Court by the learned counsel for the petitioner that when the aforesaid Notification dated 30.12.2006 was challenged before the Orissa High Court in W.P.No.16132 of 2010, the Notification itself came to be quashed, by an order dated 13.04.2011. In these circumstances, the petitioner cannot have any further grievances, since the final order as well as the Notification relied upon in the final order have already been set aside.

3. The order impugned in the present writ petition is a consequential order passed pursuant to the order of the 4th respondent. In view of these developments referred above, the impugned order itself cannot be sustained. Hence, the impugned order dated 08.02.2010 passed by the 1st respondent is set aside.

4. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

hvk

To

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PPA(CO)
SP(23/09/2019)