



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.39593 of 2005  
and  
W.M.P.Nos.39973 of 2018  
and  
42439 & 42440 of 2005  
and  
W.V.M.P.No.317 of 2006

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,  
Gr.5C- Sea Cargo,  
Custom House,  
33, Rajaji Salai,  
Chennai - 600001.

...Respondents

Prayer in W.P.No.39593 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.39973 of 2018: To amend the prayer in the writ petition bearing WP.No.39593 of 2005, to issue a Writ of Declaration, 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 1<sup>st</sup> respondent to delete the Tariff Entry No.902780 from the Notification



No.24/2005 Cus. dated 01.03.2005.

For Petitioner : Mr.G.Derrick Sam  
for Mr.S.S.Radhakrishnan

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For Respondents: Mr.T.Pramod Kumar Chopda, SPC

ORDER

The petitioner herein has filed the miscellaneous petition in W.M.P.No.39973 of 2018 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 provisions of the Customs Act, 1962, - instead of Writ of Mandamus, directing the 1<sup>st</sup> 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 the 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.39973 of 2018 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 (Insp Cell)

//True Copy//

Sub Assistant Registrar

hvk

To

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



2. The Deputy Commissioner of Customs,  
Gr.5C- Sea Cargo,  
Custom House, 33, Rajaji Salai,  
Chennai - 600001.

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+1cc to Mr.J.Pramod Kumar, Advocate, S.R.No.52907  
+1cc to Mr.Hari Radhakrishnan, Advocate, S.R.No. 52686

W.P.No.39593 of 2005 and  
W.M.P.Nos.39973 of 2018 and  
42439 & 42440 of 2005  
and  
W.V.M.P.No.317 of 2006

RV (CO)  
GN(22/08/2019)