IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.10.2019
CORAM :
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.9814 to 9817 of 2011
and
M.P.Nos.1, 1, 1 and 1 of 2011

M/s.Sri Shanmugavel Mills (P) Ltd.
A Private Limited Company,
Represented by its Director
K.Shanmugavel
Thadicombu - 624 709
Dindigul
Tamilnadu State. ... Petitioner in WP.No.9814 of 2011

M/s.Sri Velayuthasamy Spinning Mills (P) Ltd. Unit-II,
A Private Limited Company,
Represented by its Director
K.Shanmugavel
Kottaiyur - 624 709.
Dindigul Tamilnadu State. ... Petitioner in WP.No.9815 of 2011

M/s.Sri Velayuthasamy Spinning Mills (P) Ltd. Unit-I,
A Private Limited Company,
Represented by its Director
K.Shanmugavel
Nagampatti - 624 710
Dindigul, Tamilnadu State. ... Petitioner in WP.No.9816 of 2011

M/s.Sri Matha Spinning Mills (P) Ltd.
A Private Limited Company,
Represented by its Director
K.Sivaraj
Lakshmananpatti, Kalanampatti (Post),
Dindigul-624 710.
Tamilnadu State. ... Petitioner in WP.No.9817 of 2011

Vs.

1. The Joint Secretary
Government of India,
Ministry of Finance (Department of Revenue),
14 HUDCO Vishala Bldg., B Wing,
6th Floor, Bhikaji Cama Place,
New Delhi - 110 066.
having their camp office at Chennai.

2.The Additional Commissioner of Central Excise,
Central Revenue Building,
Bibikulam, Madurai - 2.

3.The Assistant Commissioner of Central Excise,
Dindigul I Division,
No.68, Nehruji Nagar,
R.M. Colony Road, Dindigul - 624 001.

... Respondents in all WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records on the file of the first respondent and quash the impugned order in Order No.117-170/2011-CX dated 14.02.2011 as illegal and without jurisdiction.

(In all Wps)
For Petitioner : Mr.R.Sivaraman
For Respondents : Mr.T.Pramod Kumar Chopda
Senior Central Government
Standing Counsel

COMMON ORDER

Both the learned counsel concur on the position that this issue is covered by two judgments of the Supreme Court in the case of H.C.L. Limited vs. Collector of Customs, New Delhi, (130 ELT 405) and Collector of Central Excise, Baroda vs. Indian Petro Chemicals, (92 ELT 13). The Full and Division Benches of the Supreme Court in the aforesaid matters have categorically confirmed the position that the option to elect and select the benefits provided under a Notification issued by the Central Excise authorities is clearly within the realm of choice of an assessee. An identical issue as arising in these matters, in regard to grant of rebate on the manufacture and export of Cotton Yarn has been considered by me in a batch of matters in W.P.(MD) Nos.4922 of 2011 & 4086 to 4107 of 2012, (order dated 01.08.2019).

2.In view of the aforesaid, the impugned orders are set aside and these writ petitions, allowed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Joint Secretary
   Government of India,
   Ministry of Finance (Department of Revenue),
   14 HUDCO Vishala Bldg., B Wing,
   6th Floor, Bhikaji Cama Place,
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   Dindigul I Division,
   No.68, Nehruji Nagar,
   R.M. Colony Road, Dindigul - 624 001.

+1 CC to Mr.T.Pramod Kumar Chopda, Senior Central Government Standing Counsel sr 89742.

W.P.Nos.9814 to 9817 of 2011 and
M.P.Nos.1, 1, 1 and 1 of 2011

NR(CO)
SP(11/12/2019)