



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WEB COPY

W.P(MD)Nos.1208 to 1220, 3290 to 3293 and 6897 of 2015

M/S. SANMAR FOUNDRIES LTD.,
87/1, VADUGAPATTI VILLAGE, VIRALIMALAI-621 316.
REP. BY ITS AUTHORIZED SIGNATORY J. RAMDOSS.

... PETITIONER IN ALL CASES

VS. -

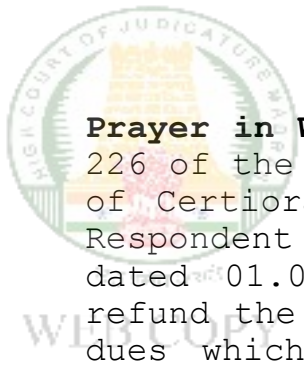
1. THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE,
DIVISION II,
NO.1, WILLIAMS ROAD, CANTONMENT,
TRICHY - 620 001.
2. THE COMMISSIONER OF CENTRAL EXCISE,
DIVISION II,
NO.1, WILLIAMS ROAD, CANTONMENT,
TRICHY - 620 001.

... 1ST & 2ND RESPONDENTS IN ALL THE CASES

3. THE COMMISSIONER OF CENTRAL EXCISE (APPEALS),
NO.1, WILLIAMS ROAD, CANTONMENT,
TRICHY - 1.

... 3RD RESPONDENT IN WP(MD). 1220/ 2015

Prayer in WP(MD). 1208/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No. 69/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of Pran Chandra Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.

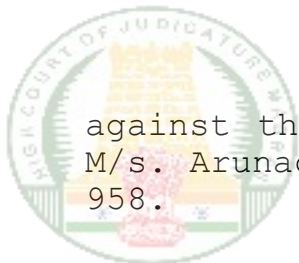


Prayer in WP(MD). 1209/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No.73/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35 F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 1210/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No. 75/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 1211/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No. 84/2014 - R dated 02.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 1212/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No.74/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs,



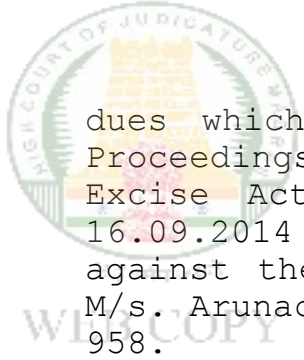
against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 1213/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No. 76/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 1214/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No. 80/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 1215/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No.87/2014 - R dated 03.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958 and also to direct the first respondent.

Prayer in WP(MD). 1216/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No. 70/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed

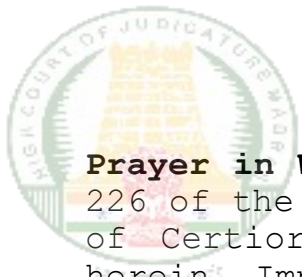


dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 1217/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No. 71/2014/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 1218/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No.72/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958 .

Prayer in WP(MD). 1219/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the First Respondent herein in the Impugned Order in Original No. 77/2014 - R dated 01.09.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944 against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs, against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd., Vs. CCE (2012) TIOL 958.



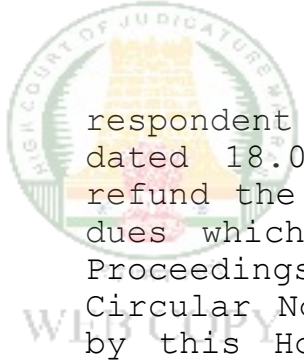
Prayer in WP(MD). 1220/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records of the first respondent herein, Impugned Order No. 103-141/14-cx dated 31.03.2014 quash the same as rebate of excise duty cannot be dealt on account of procedural lapse when substantial conditions have been satisfied and export has been accepted and quash the Impugned order in Appeal No. 52/2014 dated 20.08.2014 passed by the 3rd respondent herein.

Prayer in WP(MD). 3290/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent herein in the Impugned Order in Appeal No54/2014- R dated 14.08.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944, against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 3291/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent herein in the Impugned Order in Original No. 78/2014/4-R dated 01/09/2014, quash the same and direct the Second Respondent to refund the rebate sanctioned and appropriated against the confirmed dated which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944, against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 3292/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent herein in the Impugned Order in Appal No. 79/2014-R dated 1.09.2014, quash the same and direct the Second Respondent to refund the rebate sanctioned and appropriated against the confirmed dated which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944, against the Circular No. 984/08/2014-CX dated 16.09.2014 issued by the Central Board of Excise and Customs against the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 3293/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the first



respondent herein in the Impugned Order in Appeal No. 62/2014- R dated 18.08.2014, quash the same and direct the Respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the Proceedings travel beyond the scope of Section 35F against the Circular No. 984/08/2014-CX dated 16.09.2014 and the law laid down by this Honourable Court in the case of M/s. Arunachala Gounder Textile Mills Pvt. Ltd Vs. CCE (2012) TIOL 958.

Prayer in WP(MD). 6897/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records of the First Respondent herein in the impugned order in Original No.103/2014-R dated 26.11.2014, quash the same and direct the respondents to refund the rebate sanctioned and appropriated against the confirmed dues which are pending before concerned Appellate Forums as the proceedings travel beyond the scope of Section 35F of the Central Excise Act, 1944; against the law laid down by this Honble Court in the case of M/s Arunachala Gounder Textile Mills Pvt Ltd Vs. CCI (2012) TIOL 958 and M/s Panasonic India Pvt Ltd. Vs CIT TS-90-HC-2015.

FOR PETITIONER : MR.V.S.CHANDRASEKHAR
IN WP(MD)NOS.1208 OF 2015 TO
1220 OF 2015 AND WP(MD)No.6897 OF 2015
: MS.RADHIKA
IN WP(MD)Nos.3290 of 2015
to 3293 of 2015.

FOR RESPONDENTS : MR. B.VIJAY KARTHIKEYAN,
FOR ALL WRIT PETITIONS.

COMMON ORDER

Heard the learned counsel for the petitioners and the learned counsel for the respondents.

2. The learned counsel concur on the position that pursuant to the order of CESTAT dated 15.11.2016 and consequential order-in-original dated 03.09.2018, refunds have been obtained by the petitioners. Hence, nothing survives for adjudication as far as



these writ petitions are concerned. Recording the above, these writ petitions are closed. W.P.(MD)No.6897 of 2015 was not listed today and hence, it has been called and disposed as aforesaid, under a special list. No costs.

Sd/-

Assistant Registrar (C.O.)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Assistant Commissioner
of Central Excise Division II,
No.1, Williams Road,
Cantonment,
Trichy-620 001.
- 2.The Commissioner of Central Excise,
Division II, No.1, Williams Road,
Cantonment,
Trichy-620 001
3. The Commissioner Of Central Excise (Appeals),
No.1, Williams Road, Cantonment, Trichy - 1.

1CC TO MR. B. VIJAY KARTHIKEYAN, ADVOCATE SR 75851

W.P(MD)Nos.1208 to 1220, 3290 to 3293 and 6897 of 2015
17.07.2019

JM/09.08.2019/7P-5C