IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.07.2020
CORAM
THE HONOURABLE MR. JUSTICE M.S. RAMESH
W.P.No.27552 of 2013

M/s.Gunnebo India Pvt. Ltd.,
Rep. by its Authorized Signatory,
Mr.O.K.Balamurali Krishnan,
Plot No.98, B (NP) Ambattur Industrial Estate,
Chennai-600 098. ..Petitioner

Vs.

1.The Commissioner of Central Excise
Chennai II Commissionerate,
No.473, MHU Complex,
Nandanam, Chennai- 600 035.

2.The Assistant Commissioner of Central Excise
Range IV B, Chennai-IV Division,
Chennai-II, Commissionerate,
R-40A, A-1, TNHB Office cum Shipping Complex,
Mogappair, Chennai-600 037.

3.The Superintendent of Central Excise,
Range IV B, Chennai-IV Division,
Chennai-II, Commissionerate,
R-40A, A-1, TNHB Office sum Shipping Complex,
Mogappair, Chennai- 600 037. ..Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the second and third respondent to accept the surrender of the Petitioner's Central Excise Registration Certificate No.AAACS7236DXM004 and pass necessary orders within a reasonable time frame.

For Petitioner : Mr.G.Derrick Sam

For Respondents: Mr.Rajnish Pathyil

O R D E R

Today, the matter is listed through Video Conference. By consent of both the parties, the Writ Petition is taken up for final disposal.

2. The petitioner's grievance is against the respondents' refusal to accept the surrender of the petitioner's Central Excise Registration Certificate. The stand taken by the department is that since there is an enforceable demand against the petitioner's company and there is no provision in the Central Excise Act to accept the surrender, the petitioner's request should not be granted.

3. The learned counsel for the petitioner would rely upon the decision of the Principal Bench of CESTAT in the case of Commissioner of Central Excise, Chandigarh- Vs. R.G.R. Pharmaceuticlas [2006 (204) ELT (Tri-Del)] and submitted that when no enforceable dues are pending, surrender of the petitioner's registration certificate requires to be accepted.

4. The aforesaid decision referred to by the learned counsel makes it clear that the department would be entitled to refuse acceptance of the certificate, whenever there are dues pending from the petitioner. In the counter affidavit filed by the respondents, it is admitted that there are no enforceable dues as against the petitioner herein and as such, the respondents may not be justified in refusing the acceptance of the surrender of the petitioner's Central Excise Registration Certificate on the ground that there were demands pending.

5. Even otherwise, it is brought to the notice of this Court that the appeal before CESTAT was closed on 09.12.2017 and the further appeal before the Hon'ble Supreme Court was also disposed of on 08.07.2019. As such, the demand, which was a subject matter in the CESTAT before the Hon'ble Supreme Court, no longer exists. Even on this ground, the respondents may not be justified in refusing the acceptance of the surrender of the petitioner's Central Excise Registration Certificate.

6. Accordingly, there shall be a direction to the respondents 2 and 3 to accept the surrender of the petitioner's Central Excise Registration Certificate No..AAACS7236DXM004, within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

DP

To

1.The Commissioner of Central Excise
Chennai II Commissionerate,
No.473, MHU Complex,
Nandanam, Chennai- 600 035.

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A.SK(06/10/2020)