IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.07.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5943 of 2013

The Commissioner of Central Excise,
Chennai IV Commissionerate,
692, MHU Complex, Nandanam,
Chennai - 600 0335.

...Petitioner

Vs

1. M/s.Techno Rubber & Plastics,
   No.1, Balaji Nagar, 1st Street,
   Ekkaduthangal, Chennai - 600 097.

2. Customs and Central Excise Settlement Commission,
   Additional Bench, II Floor, Narmada Block,
   Customs House,
   60, Rajaji Salai, Chennai - 1.

... Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, calling for the records comprised in No.14/2012-C.Ex dated 28.06.2012 on the file of the 2nd respondent, quash the same and consequently direct the appropriate authority to adjudicate the above issue on merits in accordance with law.

For Petitioner	:	Mr.A.P.Srinivas Senior Standing counsel
For Respondents	:	M/s.Jayalakshmi.P For Mr.Mohammed Shaffiq [For R1] R2 - Settlement Commission

ORDER

The order passed by the Customs and Central Excise Settlement Commission on 28.06.2012 is under challenge in the present writ petition.

2. It is brought to the notice of this Court by the respective learned counsels appearing on behalf of the parties to the lis that Rule 8[3A] of the Central Excise Rules was set aside by the High Court of Gujarat at Ahmedabad in Special Civil Application No.3344 of 2014 dated 27.11.2014, reported in 2014 (310) E.L.T. 833 (Gujarat), which was followed by the High Court of Madras in W.P.Nos.2506 of 2011 and etc., batch, reported in [2015] 323 E.L.T.489 (Mad).

3. The decision of the Gujarat High Court made in SCA.No.3344 of 2014 was taken up by way of an appeal before the Hon'ble Supreme Court of India in Special Leave to Appeal (C)... C.C.No(s).16523/2015 and the Hon'ble Supreme Court on 24.09.2015, stayed the judgments with reference to the interpretation made by the respective High Courts. Thus, the interpretation of Rule 8[3A] of the Central Excise Rules is sub judice before the Hon'ble Supreme Court of India.

4. Under these circumstances, the interpretation given by the Settlement Commission also needs to go and the issues are to be adjudicated and settled based on the judgment to be delivered by the Hon'ble Supreme Court of India regarding the interpretation of Rule 8[3A] of the Central Excise Rules.

5. This being the factum, the order of the Settlement Commission is to be quashed and the matter is to be remanded back for the purpose of keeping the same in abeyance till the judgment of the Hon'ble Supreme Court of India is pronounced. Accordingly, the order impugned passed by the second respondent in proceedings No.14/2012-C.Ex dated 28.06.2012 is quashed and the matter is remanded back to the second respondent / Customs and Central Excise Settlement Commission with a direction to keep the matter in abeyance till the disposal of the matter sub judice before the Apex Court of India and thereafter, the second respondent is directed to pass appropriate orders based on the judgment to be passed by the Hon'ble Supreme Court of India in the matter of interpretation of Rule 8[3A] of the Central Excise Rules.

6. With these observations, the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

Kak

To:

Customs and Central Excise Settlement Commission,
Additional Bench, II Floor, Narmada Block,
Customs House,
60, Rajaji Salai, Chennai - 1.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.35999
+1cc to M/s.Mohammed Shaffiq, Advocate, S.R.No.36195

W.P.No.5943 of 2013

PMK(CO)
SU(16/08/2021)