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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.08.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.4155 OF 2014

AND

W.M.P.NOS.1 TO 3 OF 2014

GE India Industrial Private Limited,
401, 402, 4th Floor,
Aggarwal Millennium Tower,
E-1,2,3, Netaji Subhash Place,
Wazirpur, New Delhi - 110 034.

... Petitioner

..vs..

1. The Union of India,
Represented by its Secretary,
Ministry of Finance, Department of Revenue,
North Block, New Delhi- 110 001.
2. The Central Board of Excise and Customs,
Department of Revenue, Ministry of Finance,
Represented by its Chairman, North Block,
New Delhi - 110 001.
3. The Commissioner of Customs & Central Excise,
M.H.U.Complex, 692 Anna Salai,
Nandanam, Chennai - 600 035.
4. The Specified Officer,
J Matadee Free Trade Zone,
Mannur Village, Sriperumbudur Taluk,
Kanchipuram District,
Tamil Nadu - 602 105.
5. The Authorized Officer,
J Matadee Free Trade Zone,
Mannur Village, Sriperumbudur Taluk,
Kanchipuram District,
Tamil Nadu - 602 105.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Prohibition or any other Writ,



Order or Direction, of a like nature forbearing the respondents, their servants, agents and subordinates from carrying out any assessment in contravention with advance Ruling No.AAR/Cus/01/2013 dated 27.05.2013 (M/s.GE India Industrial Private Limited Vs. The Commissioner of Customs (Export); of goods cleared as stock transfers for self-consumption from a unit located in J Maadee Free Trade Warehousing Zone to the petitioner's unit(s) in the Domestic tariff Area.

For Petitioner : No appearance

For Respondents : Mr.T.Promod Kumarchopda
Senior Standing Counsel for R1- R3
No appearance for R4 and R5

O R D E R

The relief sought for in the present Writ Petition is to forbear the respondents, their servants, agents and subordinates from carrying out any assessment in contravention with advance Ruling No.AAR/Cus/01/2013 dated 27.05.2013 (M/s.GE India Industrial Private Limited Vs. The Commissioner of Customs (Export); of goods cleared as stock transfers for self-consumption from a unit located in J Maadee Free Trade Warehousing Zone to the petitioner's unit(s) in the Domestic tariff Area.

2. The petitioner based on certain apprehensions filed the Writ Petition seeking a relief in the nature of an injunction restraining the respondents from carrying out any assessment in contravention with the advance ruling dated 27.05.2013.

3. Based on such apprehension, no writ needs to be entertained in a routine manner. The application of advance ruling dated 27.05.2013 or otherwise may arise only if an assessment order is passed even before taking a decision by the Competent Authority. The writ petitioner has chosen to file the present Writ Petition merely on the ground that the authorities are attempting to pass an assessment in contravention with the advance ruling dated 27.05.2013. The relief cannot be granted in anticipation in such circumstances. The authorities are in the process of consideration. The petitioner would be getting an opportunity to defend their case. The application of advance ruling or otherwise is to be ascertained with reference to the facts and circumstances placed before the Competent Authority. Thus, the petitioner is at liberty to place all their objections or apprehensions or advance ruling or otherwise before the Competent Authority at the time of passing of the final



assessment orders. This being the grievances as expressed by the petitioner in the Writ Petition, the relief as sought for cannot be granted and the petitioner is at liberty to defend their case before the Competent Authority.

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4. Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Vji
19.08.2021

Sd/-
21.09.2021

"FOR BEING MENTIONED"

This Writ Petition having been posted on Thursday, the Second Day of September, 2021 (02.09.2021) for being mentioned in pursuance to the order of this Court dated 19.08.2021 and made herein in the presence of Mr.Tushar Jarwal, for M/s.Rahul Sateerja and Mr.Deepak Thacker and Mr.B.Giridhara Rao for the petitioner and of Mr.T.Pramod Kumarchopda, Senior Standing Counsel for the Respondents 1 to 3, this Court made the following order:-

Today, the writ petition is listed under the caption 'For Being Mentioned' at the instance of the learned counsel for the petitioner, in view of the fact that the learned counsel for the petitioner raised a point that he could not able to appear on 19.08.2021, when the matter was taken up for final hearing and this Court passed orders on merits on that day.

2. The learned counsel appearing on behalf of the petitioner made a submission that the matter requires consideration with reference to Advance Ruling Notification and the judgments in this regard also to be considered by this Court.

3. In view of the said submission, the orders passed by this Court on 19.08.2021 in W.P.No.4155 of 2014 stands recalled.

Kak
02.09.2021

Sd/-
21.09.2021



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DATED : 02.09.2021

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.4155 OF 2014

AND

W.M.P.NOS.1 TO 3 OF 2014

GE India Industrial Private Limited,
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... Petitioner

..VS..

1. The Union of India,
Represented by its Secretary,
Ministry of Finance, Department of Revenue,
North Block, New Delhi- 110 001.
2. The Central Board of Excise and Customs,
Department of Revenue, Ministry of Finance,
Represented by its Chairman, North Block,
New Delhi - 110 001.
3. The Commissioner of Customs & Central Excise,
M.H.U. Complex, 692 Anna Salai,
Nandanam, Chennai - 600 035.
4. The Specified Officer,
J Matadee Free Trade Zone,
Mannur Village, Sriperumbudur Taluk,
Kanchipuram District,
Tamil Nadu - 602 105.
5. The Authorized Officer,
J Matadee Free Trade Zone,
Mannur Village, Sriperumbudur Taluk,
Kanchipuram District,
Tamil Nadu - 602 105.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Prohibition or any other Writ, Order or Direction, of a like nature forbearing



the respondents, their servants, agents and subordinates from carrying out any assessment in contravention with advance Ruling No.AAR/Cus/01/2013 dated 27.05.2013 (M/s.GE India Industrial Private Limited Vs. The Commissioner of Customs (Export); of goods cleared as stock transfers for self-consumption from a unit located in J Maadee Free Trade Warehousing Zone to the petitioner's unit(s) in the Domestic tariff Area.

For Petitioner : Mr.Tushar Jarwal
For M/s.Rahul Sateerja
and Mr.Deepak Thacker
and Mr.B.Giridhara Rao

For Respondents : Mr.T.Promod Kumarchopda
Senior Standing Counsel for R1- R3
No appearance for R4 and R5

O R D E R

The relief sought for in the present Writ Petition is to forbear the respondents, their servants, agents and subordinated from carrying out any assessment in contravention with advance Ruling No.AAR/Cus/01/2013 dated 27.05.2013 (M/s.GE India Industrial Private Limited Vs. The Commissioner of Customs (Export); of goods cleared as stock transfers for self-consumption from a unit located in J Maadee Free Trade Warehousing Zone to the petitioner's unit(s) in the Domestic tariff Area.

2. However, the fact remains that by referring to the Advance Ruling and the Circulars issued by the Department / CBEC, an order was passed on 03.02.2014 and challenging the said order passed, another writ petition in W.P.No.4156 of 2014 was filed. The writ petitioner has challenged both the Circular as well as the orders passed by the respondents and therefore, the relief as such sought for in W.P.No.4155 of 2014 cannot be considered.

3. Accordingly, the Writ Petition in W.P.No.4155 of 2014 stands disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Kak



To

1. The Secretary, The Union of India,
Ministry of Finance, Department of Revenue,
North Block, New Delhi- 110 001.
2. The Chairman,
The Central Board of Excise and Customs,
Department of Revenue, Ministry of Finance,
North Block, New Delhi - 110 001.
3. The Commissioner of Customs & Central Excise,
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Kanchipuram District, Tamil Nadu - 602 105.

+lcc to Mr.T.Promod Kumarchopda, Advocate, S.R.No.44845

WP.No.4155 OF 2014
AND
W.M.P.Nos.1 TO 3 OF 2014

SV-1(CO)
CS/24/09/2021