



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.P. (MD) No.23258 of 2018
and W.M.P. (MD) No.21119 of 2018**

M/s.Shree Renga Polymers,
Represented by its Managing Partner,
SF 638, KPR Thottam, Kalipalayam, Puliur,
Karur - 639 114.

... Petitioner

-vs-

- 1.The Commissioner of GST & Central Excise,
Karur Division,
No.15, Gowripalayam, Extension,
Anna Nagar, Karur - 639 002.
- 2.Deputy Commissioner of GST & Central Excise,
Karur Division,
No.15, Gowripalayam, Extension,
Anna Nagar, Karur - 639 002.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned Final Order No.42646/2018 dated 25.09.2018, passed by the Hon'ble CESTAT and quash the same.

For Petitioner

: Mr.Ragavan Rama Puthiran
For M/s.Lakshmi Kumaran &
Sridhar

For Respondents

: Mr.B.Vijay Karthikeyan
Standing Counsel

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.Raghavan Rama Puthiran, learned counsel appearing for the petitioner and Mr.B.Vijay Karthikeyan, learned Standing Counsel appearing for the respondents.

2.The petitioner is before this Court, challenging the final order passed by the Customs, Excise & Service Tax Appellate Tribunal



in Final Order No.42464 of 2018.

3.On a perusal of the impugned order, it is clear that the issue involved pertains to classification of the product dealt with by the petitioner. The endeavour of the learned counsel for the petitioner is to state that if the petitioner is able to convince the Court that the product dealt with by them does not amount to manufacture, the question of demand does not arise. It is further submitted by the learned counsel appearing for the appellant that the said issue was raised before the Tribunal, but the Tribunal has not considered the same. Further, with regard to the classification issue, the petitioner can very well avail the remedy before this Court and hence approached this Court by way of this Writ Petition.

4.We have heard the learned Standing Counsel appearing for the respondents on the above submissions. In support of his submission, he relied on the decision of this Court in **Competition Team Technology (India) Private Ltd., v. Union of India [2018 (16) G.S.T.L. 465 (Mad.)]**, to which one of us [The Hon'ble Mr. Justice T.S.SIVAGNANAM] is a party.

5.According to the petitioner, since the product dealt with by them does not amount to manufacture, the question of demand does not arise. However, the examination as to whether the product dealt with by them undergo manufacturing process or not, both the issues are intertwined. Therefore, we are not deciding the correctness of the order as this Court has no jurisdiction to decide a classification dispute. Therefore, we reject this Writ Petition as not maintainable. However, it is open to the appellant to exercise its appellate remedy available under the Act. Registry is directed to return the original impugned order. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-88015[F] dated 20/09/2019)

+1 CC to M/s.LAKSHMI KUMARAN, Advocate (SR-88596[F] dated 23/09/2019)

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