



WEB COPY



C.M.A. Nos. 424 of 2017 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE C. SARAVANAN

C.M.A. Nos. 424 of 2017, 603, 1257, 1258 of 2018, 2135, 2136, 2139, 2146

of 2022 &

W.A. No. 802 of 2017

&

C.M.P. Nos. 16590, 16606 & 16638 of 2022

C.M.A. No. 424 of 2017

The Commissioner of Central Excise,
Chennai IV Commissionerate,
692, MHU Complex,
Anna Salai, Nandanam,
Chennai – 600 035.

..Appellant

Vs.

Siva Forgings,
Shed No.111, Thirumudivakkam,
SIDCO Industrial Estate,
Chennai – 600 044.

..Respondent



C.M.A. Nos. 424 of 2017 etc. batch

Prayer: Civil Miscellaneous Appeal as against the Final Order No. 41305 of 2016 in Appeal No. E/40449/2015 – SM dated 26.07.2016 passed by the Customs, Excise and Service Tax Appellate Tribunal, Chennai.

For Appellant :: Mr.A.P. Srinivas

For Respondent :: Mr.R. Swarnavel

C.M.A.No. 603 of 2018

Commissioner of Central Excise &
Service Tax,
Chennai – III Commissionerate,
Chennai – 600 034.

..Appellant

Vs.

M/s. Gomes Power Fab Pvt. Ltd.,
No.112, Singadivakkam Village
and Post,
Kanchipuram – 631 561,
Tamil Nadu.

..Respondent

Prayer: Civil Miscellaneous Appeal as against the Final Order No. 42173/2016 dated 07.11.2016 in Appeal No. E/40896/2-15-DB passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant :: Mr.A.P. Srinivas



C.M.A. Nos. 424 of 2017 etc. batch

For Respondent :: No appearance

C.M.A. Nos.1257 & 1258 of 2018

The Commissioner of Central Excise,
O/o the Commissioner of Central Excise,
Customs & Service Tax,
6/7, A.T.D. Street, Race Course Road,
Coimbatore – 641 018.

..Appellant in both
appeals

Vs.

1. M/s. Texcel International Private Ltd.,
S.F. No. 26/5, Palladam Road,
Chettipalayam Post,
Coimbatore – 641 201.

2. The Customs, Excise and Service Tax
Appellate Tribunal,
South Zonal Bench,
Shastri Bhavan Annexe, I Floor,
26, Haddows Road,
Chennai – 600 006.

..Respondent in
both appeals

Prayer: Civil Miscellaneous Appeals as against Final Order Nos. 40853
& 40859 of 2015 dated 08.07.2015 in Appeal Nos. E/S/40512/2013 &
E/42130/2013 respectively passed by the Customs, Excise and Service Tax
Appellate Tribunal, South Zonal Bench at Chennai.



WEB COPY



C.M.A. Nos. 424 of 2017 etc. batch

For Appellant in both
appeals

::

Mr.A.P. Srinivas

For Respondent in
both appeals

::

Ms.P. Jayalakshmi for
M/s. S. Muthuvenkatraman &
M.N. Bharathi for R1

C.M.A. Nos. 2135, 2136, 2139 & 2146 of 2022

The Commissioner of Central Excise,
Chennai II Commissionerate,
M.H.U. Complex,
No. 692, Anna Salai,
Nandanam, Chennai – 600 035.

..Appellant in all appeals

Vs.

Faithful Engineers Pvt. Ltd,
Old No. 17, 5 Furlong Road,
New No.34, Maduvankarai,
Guindy, Chennai 600 032.

..Respondent in all
appeals

Prayer: Civil Miscellaneous Appeals as against Final Order Nos.
41752, 41751, 41754 & 41753 of 2015 dated 23.12.2015 in Appeal Nos.
E/41940/2014, E/41939/2014, E/41942/2014 & E/41941/2014 respectively
passed by the Customs, Excise and Service Tax Appellate Tribunal,
Chennai Bench, Chennai.



WEB COPY



C.M.A. Nos. 424 of 2017 etc. batch

For Appellant in
all appeals

:: Mr.A.P. Srinivas

For Respondent in
all appeals

:: Not Ready in notice

W.A. No. 802 of 2017

1. The Deputy Commissioner of Central
Excise,
Chennai – 600 035.

2. The Commissioner of Central Excise,
Chennai IV Comissionerate,
Chennai – 600 035.

..Appellants

Vs.

M/s. Sri Sivasakthi Auto Ancillaries
Madras Pvt. Ltd.,
rep. by its Director D. Ganeshan,
No.50/1, Gangai Amman Koil Street,
Karapakkam Village,
Chennai – 600 097.

..Respondent

Prayer: Writ Appeal as against the order dated 15.09.2015 passed in

W.P. No. 11204 of 2015.

For Appellants :: Mr.A.P. Srinivas

For Respondent :: Mr.S.M. Deenadayalan



C.M.A. Nos. 424 of 2017 etc. batch

WEB COPY

COMMON JUDGMENT

S. VAIDYANATHAN,J.

AND

C. SARAVANAN,J.

These appeals are taken up for final disposal and are disposed of in the light of the decision of Gujarat High Court in *Indsur Global Ltd. V. Union of India 2014 (310) ELT 833 (Guj.)* and subsequent development. The Gujarat High Court had held that Rule 8(3A) of the Central Excise Rules, 2002 was ultra vires the Act. This decision was followed by this Court in the case of *A.R. Metallurgicals P. Ltd V. CESTAT 2015 (322) ELT 49 (Mad.)*. However, decision of Gujarat High Court in *Indsur Global Ltd. V. Union of India 2014 (310) ELT 833 (Guj.)* has been stayed by the Hon'ble Apex Court as reported in *2016 (335) ELT A109 (SC)*. The relevant portion of the order of the Hon'ble Apex Court reads as hereunder:

"There shall be interim stay of the impugned judgment and order passed by the High Court of Gujarat at Ahmedabad in Special Civil Application No. 3344 of 2014 dated 27.11.2014. We restrain the petitioner(s) herein to recover a sum of Rs.87,00,000/- (Rupees eight seven lakhs only) from the



C.M.A. Nos. 424 of 2017 etc. batch

*respondent till the disposal of the Special Leave Petition (C)
C.C. No. 16523 of 2015."*

WEB COPY

2. Considering the above, we are inclined to set aside the impugned order and remit the cases back to the original authority concerned to await for the final orders of the Hon'ble Supreme Court in Special Leave Petition (C) C.C. No. 16523 of 2015 [*Union of India V.Indsur Global Ltd.*].

3. In case, in C.M.A. No. 424 of 2017, the issues governed by the litigation policy of the Government, respondent is directed not to press for any payment.

4. The civil miscellaneous appeals and the writ appeal are disposed of accordingly. No costs. Connected C.M.Ps. are closed.

nv

(S.V.N.J.) (C.S.N.J.)
04.11.2022



WEB COPY



C.M.A. Nos. 424 of 2017 etc. batch

S. VAIDYANATHAN,J.

AND

C. SARAVANAN,J.

nv

C.M.A. Nos. 424 of 2017, 603, 1257,
1258 of 2018, 2135, 2136, 2139, 2146 of 2022

&

W.A. No. 802 of 2017

04.11.2022