



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).Nos.11340 and 11341 of 2014
and
W.M.P(MD).Nos.1 and 1 of 2014

W.P. (MD).No.11340 of 2014

Vishnu Fabrics Private Limited
Represented by its Director,
P.D.Ramasubramania Raja,
Rukmani Gardens, Madavarvilagam,
Srivilliputtur,
Virudhunagar District.

... Petitioner

Vs.

1.The Commissioner, (Appeals)
Office of the Commissioner of
Central Excise, (Appeals)
Lal Bahadur Sastri Marg,
C.R.Buildings,Madurai.

2.The Assistant Commissioner,
Office of the Commissioner of Central Excise,
Rajapalayam,
Virudhunagar District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in A.No.79 of 2011 dated 24.02.2012 and quash the same.

For Petitioner : Mr.R.Krishnamoorthy

For Mr.T.Bashyam

For Respondents : Mr.K.Prabhu

Junior Standing Counsel

W.P. (MD).No.11341 of 2014

Vishnu Fabrics Private Limited
Represented by its Director,
P.D.Ramasubramania Raja,
Rukmani Gardens, Madavarvilagam,
Srivilliputtur,
Virudhunagar District.

... Petitioner



Vs .

1.The Commissioner, (Appeals)
Office of the Commissioner of
Central Excise, (Appeals)
Lal Bahadur Sastri Marg,
C.R.Buildings,
Madurai.

2.The Joint Commissioner,
Office of the Commissioner of Central Excise,
Tirunelveli. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in A.No.148 of 2012 (TNL), dated 29.03.2013 and quash the same.

For Petitioner	: Mr.R.Krishnamoorthy
	For Mr.T.Bashyam
For Respondents	: Mr.K.Prabhu
	Junior Standing Counsel

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Junior Standing Counsel for the respondents.

2. In these writ petitions, the petitioner has challenged the order in Appeal No.79 of 2011 (TNL), dated 24.02.2012 and order in Appeal No.148 of 2012 (TNL), dated 29.03.2013.

3. Though, learned counsel for the petitioner had made certain submissions on merits and had also pleaded difficulty on account of the untimely death of Director and since the subsequent Director was unaware of the liability, the case could not properly prosecuted, it is noticed that the petitioner had issued with two show cause notices, dated 10.08.2010 and 16.08.2010, which culminated in order in Original No.17/AC/CE/2010, dated 30.12.2010, bearing reference C.No.V/7109/15/21/2010-ADJN and order in Original No.03/ADC/CE/2012, dated 13.01.2012, bearing reference C.No.V/7109/15/58/10-ADJN respectively. By the aforesaid order in Original, demand proposed in the show cause notice issued to the petitioner has been confirmed.

4. Aggrieved by the same, the petitioner had also filed the respective appeals before the first respondent. The first respondent dismissed the appeal on merits after noting the petitioner was not appearing for personal hearing despite several dates for appearance. It is noted that the impugned order passed by the Commissioner is an appealable order and appeal lies before the Customs Excise and Service Tax Appellate Tribunal (CESTAT), Chennai.



5. Considering the same, these writ petitions were filed almost immediately after the impugned orders were passed, I am inclined to dispose these writ petitions by directing the petitioner to file a statutory appeal before the Tribunal within a period of 45 days from the date of receipt of copy of this order subject to the petitioner making mandatory pre-deposit under Section 129 E of the Customs Act, 1961. If such appeal is filed, Customs Excise and Service Tax Appellate Tribunal (CESTAT), Chennai, Registry shall number the appeal and list it for final hearing in its turn. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Commissioner, (Appeals)
Office of the Commissioner of
Central Excise, (Appeals)
Lal Bahadur Sastri Marg,
C.R.Buildings,
Madurai.

2.The Assistant Commissioner,
Office of the Commissioner of Central Excise,
Rajapalayam,
Virudhunagar District.

3.The Joint Commissioner,
Office of the Commissioner of Central Excise,
Tirunelveli.

Copy to:

The Customs Excise and Service
Tax Appellate Tribunal (CESTAT), Chennai,

+1 CC to M/s.K. PRABHU, Advocate (SR-17886[F] dated 11/04/2022)

W.P(MD) .Nos.11340
and 11341 of 2014
08.04.2022