BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 15.09.2023

PRONOUNCED ON: 10.10.2023

CORAM

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**Review Appln.(MD)Nos.139 to 150 of 2023**
**in W.P.(MD).Nos.6895 to 6906 of 2022**
**and**
**W.M.P.(MD).Nos.16041, 16043, 16031, 16035, 16039, 16017, 16020, 16022, 16023, 16025 & 16029 of 2023**

**[Review Appln.(MD).No.139/2023]**

Kothari Sugars and Chemicals Limited,
Rep. by its Company Secretary
Mr.R.Prakash, having office at No.115,
Kothari Buildings, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600034.

...Petitioner

**Vs.**

1.The Commissioner of CGST & Central Excise,
No.1 Williams Road, Cantonment,
Trichy, Tamil Nadu – 600001.

2.The Deputy Commissioner of Central Excise & Service Tax,
Central Excise & Service Tax 2 Division,
No.1 Williams Road, Cantonment,
Trichy, Tamil Nadu - 600001.

3.The Assistant Commissioner of Central Excise & Service Tax,
Central Excise & Service Tax 2 Division,
No.1 Williams Road, Cantonment,
Trichy, Tamil Nadu - 600001.

4.The Superintendent of Central Excise & Service Tax,
Central Excise Range,
Oppillatha Ammankovil Street,
Ariyalur, Tamil Nadu. ...Respondents

**[W.P.(MD).No.6895 of 2022]**

Kothari Sugars and Chemicals Limited,
No.115, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600034.
and interalia having its factory at Kattur,
Lalgudi Taluk, Trichy District,
Rep.by its Company Secretary
Mr.R.Prakash ...Petitioner

**Vs.**

1.The Commissioner of CGST & Central Excise,
No.1 Williams Road, Cantonment,
Trichy, Tamil Nadu - 600001.

2.The Deputy Commissioner of Central Excise & Service Tax,
Central Excise & Service Tax 2 Division,
No.1 Williams Road, Cantonment,
Trichy, Tamil Nadu - 600001.

3.The Assistant Commissioner of Central Excise & Service Tax,
Central Excise & Service Tax 2 Division,
No.1 Williams Road, Cantonment,
Trichy, Tamil Nadu - 600001.

4.The Superintendent of Central Excise & Service Tax,
Central Excise Range,
Oppillatha Ammankovil Street,
Ariyalur, Tamil Nadu. ...Respondents

**PRAYER in Review Appln.(MD).No.139 of 2023:** Review Petition is filed under Order 47 Rule 1 & 2 r/w Section 114 of the Code of Civil Procedure to review and recall the Common Order passed by this Hon'ble Court in a batch of Writ Petitions dated 28.06.2023 in W.P.(MD)No.'s 6895 to 6906 of 2022.

**PRAYER in W.P(MD).No.6895 of 2022:** Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records of the second respondent pertaining to the impugned show cause notice bearing No.C.No.IV/09/10/2009-Cx Adj. DSCN No.10/2009 dated 16.06.2009 issued by the second respondent and quash the same.

For Petitioner :Mr.Joseph Kodianthara, Senior Counsel
for Mr.Vikram Veerasamy

For Respondents :Mr.N.Dilip Kumar, Senior Standing
Counsel for GST, C & E [R.1 to R.4]

## COMMON ORDER

The above Review Applications are filed seeking to review the common order passed by this Court dated 28.06.2023 on the ground that the order which is the subject matter of the review had been passed on the oral representation of the respondents that the issue involved in the case of M/s.EID Parry (India) Limited ( hereinafter referred to EID Parry) was similar to the issue involved in the instant case and that the said appeal filed by the EID Parry had been held in favour of the EID Parry and the CENVAT Credit availed by them in respect of the machineries that they had used in the co-generation/captive power plant is held to be in order.

2. The review petitioner would submit that after the passing of this order, when the petitioner had appeared before the 1st respondent, the 1st respondent insisted upon the petitioner producing the User Test Certificate as the order in EID Parry had been passed on the basis of this User Test Certificate. The grievance of the review petitioner is that the issue of the production of the User Test Certificate was not brought to their notice on 28.06.2023 and further the question of producing the user certificate in their case does not arise. A perusal of the order dated 28.06.2023 would clearly indicate that the issue of the User Test Certificate was not brought to the notice of the petitioner as well as to the Court. What was represented was that the very same issue forming the subject matter of the Writ petitions was the subject matter of the order passed by the Commissioner of GST and Central Excise in the matter of EID Parry. Therefore, the Review Petitioner was not put on notice about the production of the User Test Certificate.

3. It is also their case that after the writ was argued at length they were informed that the Commissioner in the case of EID Parry had held that EID Parry was entitled to CENVAT Credit in respect of the machineries and other items used in the Captive Power Plant. Since the subject matter of both the cases were similar, they had agreed to the Court passing the impugned order and the orders were passed by this Court directing the writ petitioner to appear before the 1st respondent on 12.07.2023. While passing the order, this Court had directed the 1st respondent to follow the order dated 31.03.2023 passed in the matter of EID Parry and allow the CENVAT Credit in respect of the machineries that the petitioners used in their co-generation/captive power plant. The Court had also directed that orders had to be passed within a period of two weeks from the date of appearance of the petitioner before the 1st respondent. The question of producing the User Test Certificate had not been brought to the notice of the Court. Therefore, the review now filed by the petitioner has to necessarily be allowed.

4. Both parties had earlier argued the writ petition at length and after hearing both sides when the parties had orally submitted that in a similar case, the first respondent had set aside the show cause notice this Court had passed the order dated 28.06.2023. Mr.Dilip learned Standing counsel appearing on behalf of the Revenue had justified the necessity for the production of the User Test Certificate by stating that no prejudice would be caused to the petitioner if it is so provided. Before proceeding to consider the challenge to the show cause notices and the review now filed, it is necessary to set forth the facts briefly and parties are referred to as petitioner and respondents respectively.

5. The instant writ petitions have been filed to quash 12 Show Cause notices issued by the Commissioner/Deputy Commissioner/Assistant Commissioner/Superintendent with respect to the Kattur and Sathamangalam Plants of the petitioner herein. The Revenue had observed that the co-generation power plant is a turn-key project like power plants which are not excisable goods. The show

cause notices have been issued on the ground that as electricity is an exempted product applying the terms of rule 6(4) of the CENVAT Credit Rules 2004, the petitioner is not entitled to CENVAT Credit and the petitioner have been asked to show cause as to why:

> *i) the CENVAT credit already availed on the capital goods used in the co-generation plant for the various periods should not be demanded from them under Rule 14 of the CENVAT Credit Rule 2004;*
>
> *ii) why interest at the appropriate rate should not be collected from them; and*
>
> *iii) why penalty should not be imposed on them under Rule 15 of the CENVAT Credit Rule. They were called upon to make their written submission along with the documents in support thereof.*

6. It is necessary to briefly touch upon the facts which have preceeded the issue of the show cause notices subject matter of these writ petitions/review petitions.

7. The petitioner had earlier been served with show cause notices for the periods September 1995 – November 1995, May 1996 to December 1999 and September 1997 to February 1998 in respect of the CENVAT Credit availed by them stating that the electricity that had been generated from the co-generation plant had not been utilized captively but that a portion of the power generated had been sold to the Tamil Nadu Electricity Board **(as it was then known)**. Against these show cause notices, the petitioner had preferred appeals which had been allowed by the 1st respondent. The orders in respect of the period September 1997 to February 1998 and September-November 1995 that are covered by final orders bearing Nos.75 of 2005 and 1494 of 2005 respectively was not challenged by the Revenue. The order passed by the 1st respondent in final order Nos.787 and 788 of 2007 for the period May 1996 to December 1999 were challenged unsuccessfully before this Court in CMA Nos.2146 and 2147 of 2008. The Division Bench of this Court by their order dated 24.07.2008 was pleased to

observe that the respondents had not challenged the final order nos.75 and 1494 of 2005 which were also the orders passed in respect of similar show cause notices relating to the co-generation power plant of the petitioner. That apart, the Bench had also observed that cases of other assessees were also considered favorably by the Tribunal and ultimately, the appeals were dismissed.

8. Challenging the said order, the respondent had filed a Special Leave Petition before the Hon’ble Supreme Court which was later admitted and converted into Civil Appeals Nos.2039 and 2040 of 2011. The respondents had conceded that they had not challenged the orders passed in final order no.75/2005 (which was the show cause notices for the period September 1997 to February 1998). They had contended that though had not challenged the orders in view of the fact that the 2$^{nd}$ proviso to Rule 57 R2 had been omitted on 31.08.1996 even prior to the demand being raised. They had also contended that the decision

against filing the appeals had been taken in the light of the decision of the Tribunal made in the case of ***M/s. HEG Ltd. Vs. C.C.E.*** reported in ***2004 (177) ELT 605(T)*** confirmed on 30.09.2010 by the Division Bench of the Chhattisgarh High Court reported in ***2010 (260) E.L.T. 386 (Chhattisgarh) – Commissioner of CUS. & C.EX., Chhattisgarh.*** In this case, the Bench had held that CENVAT Credit cannot be denied to the assessee therein on the ground that the electricity generated from the Captive Power Plant was being wheeled out to the sister concern of the petitioner therein (HEG limited) and also on the ground that the assessee was not claiming CENVAT credit on the inputs used for the generation of electricity in the captive power plant. Ultimately, the respondents had withdrawn the appeals filed by them against the petitioner herein before the Hon'ble Apex Court. By reason of the above, the issue raised in these earlier show cause notices, viz., that the electricity generated was not being fully utilized captively and therefore, the petitioners were not entitled to claim CENVAT credit was held against the respondent.

9. The petitioner would submit that thereafter the show cause notices which are impugned in the above writ petitions came to be issued. These show cause notices were premised on the basis that the capital goods were being utilized for generating electricity which by itself was an exempted commodity and therefore the petitioners were not entitled to CENVAT Credit.

10. The following tabulated statement would give the details of the show cause notices issued, its dates and the period covered under each of the notices and these are the show cause notices which are subject to challenge in these writ petitions.

| ***S.N.*** | ***SCN No.*** | ***Dated*** | ***Period*** |
|---|---|---|---|
| 1. | C No/IV/09/10/2009 | 16.06.2009 | Feb 2008 to Jan 2009 |
| 2. | C No/IV/09/02/2010 | 24.02.2010 | April 2009 to Dec 2009 |
| 3. | C No/V/Ch17/15/21/2009 | 02.12.2010 | Mar 2006 to Dec 2009 |
| 4. | C No/IV/09/01/2011 | 12.01.2011 | Jan 2010 to Dec 2010 |
| 5. | OC No 66/11 | 09.02.2011 | Mar 2006 |
| 6. | C No/IV/09/62/2011 | 26.12.2011 | Jan 2011 to Sep 2011 |
| 7. | C No/IV/09/17/2012 | 13.07.2012 | Oct 2011 to Apr 2012 |

| S.N. | SCN No. | Dated | Period |
|---|---|---|---|
| 8. | C No/IV/09/17/2012 | 02.11.2012 | Oct 2011 to Apr 2012 |
| 9. | C No/IV/09/09/2013 | 01.04.2013 | May 2012 to Dec 2012 |
| 10. | C No/IV/09/06/2014 | 03.02.2014 | Jan 2013 to Dec 2013 |
| 11. | C No/IV/09/38/2014 | 30.01.2015 | Jan 2014 to Sep 2014 |
| 12. | C No/IV/09/16/2015 | 09.11.2015 | Oct 2014 to Mar 2015 |

11. The petitioner had challenged the show cause notices on the ground that by reason of the orders passed in the earlier show cause notices, this issue had attained finality and the respondents cannot revive the same once again. The petitioner has also challenged the impugned notices on the ground of delay by stating that after the issue of the show cause notices spread over the period June 2009 to March 2015 no action to date has been taken to date and therefore relying upon the provisions of Section 11 A(11) the time limit for adjudicating on the show cause notices had long expired and on this ground also the show cause notices deserve to be quashed.

12. When these writ petitions had come up for admission the learned standing counsel for the respondents had taken time to come back with instructions and the matter had come up on several dates when both parties had made their submissions ultimately on 28.06.2023, the learned standing counsel for the respondents had come forward with the submission that the matter involved in the case of EID Parry is the very same issue involved in the present case where the Commissioner had held in favour of EID Parry. Therefore ultimately by consent, the order came to be passed.

13. However, when the petitioners had appeared before the 1st respondent, they were asked to produce the User Test Certificate. The bone of contention in the review between the parties is on the ground that the production of the User Test Certificate was not made known on 28.06.2023 and therefore the order passed on consent has to be reviewed and the writ petitions allowed. Before touching upon the arguments of the petitioner, it would be appropriate to first extract the

arguments made by the counsel for the respondents regarding the demand for the user Certificate and the validity and relevance of the Show Cause Notices.

14. It is the case of Mr.Dilip Kumar learned Senior Standing counsel appearing for the respondents/revenue that the User Test Report is relevant for considering the issue on hand only to arrive at a conclusion as to whether the machineries/components are being actually used in the captive power plant, since CENVAT Credit is applicable only in respect of those machineries that are being used in the co-generation power plant for generating electricity. That apart, it is the contention of Mr.Dilip that the issue of a User Test Certificate has already been discussed and approved by the Hon'ble Supreme Court in the judgments reported in ***Commissioner of Central Excise V. Jawahar Mills Ltd., 2001 (132) ELT 3*** and in ***Commissioner of Central Excise, Jaipur V. Rajasthan Spinning & Weaving Mills 2010 (255) ELT 481.***

15. He would draw the attention of the Court to the judgment in ***Jawahar Mills Ltd,*** cited supra, wherein the Hon'ble Supreme Court had observed that "user will determine whether an item qualifies or not the requirement of clause 1A", namely, the explanation given to capital goods under Rule 57 Q of the Central Excise Rule 1944. He would also rely upon the judgment in ***Rajasthan Spinning & Weaving Mills,*** cited supra**,** wherein the Hon'ble Supreme Court had approved the User Test Certificate for arriving at a conclusion as to whether machinery would conform to the definition of capital goods in Rule 57 Q. It is also his contention that the case of EID Parry is factually similar to the case on hand and the petitioner therein has produced the User Test Certificate.

16. The learned counsel would further submit that once the User Test certificate is produced, the orders would immediately be pronounced. He would argue that if the petitioner is confident about their eligibility for the CENVAT Credit, the submission of the User Test Certificate of a Chartered Engineer could be produced by them

and their refusal gives rise to doubt about the usage of the disputed capital machineries/inputs in establishing the co-generation power plant. It is his argument that the petitioner is entitled to CENVAT Credit only in respect of machineries/inputs that are actually put into use in the co-generation power plant. Once the petitioner is able to prove that the components are an integral plant of the co-generation power plant then the respondents would have no hesitation in allowing the CENVAT credit. He would submit that the electricity generated by itself is an exempted product and therefore the petitioner cannot seek CENVAT credit.

17. It is his contention that the demand for a User Test Certificate is not in variance with the directions of this Court on 28.06.2023. He would further submit that the impugned show cause notices have been issued only on account of the change in legal scenario which has taken place on account of the judgments in the ***Rajasthan Spinning & Weaving Mills*** and the ***Jawahar Mills Ltd***. He would therefore submit

that no exception can be taken in respect of the show cause notices. As and when the User Test Certificate is issued, the 1st respondent would follow the order passed in the case of EID Parry. He would also submit that the writ petitions are by itself not maintainable as the petitioner's seek to challenge the show cause notices. The petitioner without showing cause has directly moved this Court. He would submit that the orders relating to the earlier show cause notices are not applicable to the facts of the present show cause.

18. Per contra, Mr. Joseph Kodianthara, learned Senior counsel appearing on behalf of Vikram Veerasamy would submit that the contention of the respondent that the show cause notices have been issued on account of the changed legal scenario on account of the above-referred judgments of the Hon'ble Supreme Court is without any basis, since the judgment in ***Jawahar Mills Ltd*** had been pronounced as early as in the year 2001, during the pendency of the earlier

proceedings before the Hon'ble Supreme Court. As regards the judgment in the ***Rajasthan Spinning & Weaving Mills,*** the same has been passed only in the year 2010. Therefore, the contention of the petitioner that there is a changed legal scenario does not hold water.

19. He would submit that the earlier show cause notices had been issued on the ground that the electricity generated was not being utilized for the petitioner's own use but that it was being sold to the Electricity Board. The matter had been challenged by the revenue right up to the Hon'ble Supreme Court where ultimately, they had given up their claim. In the appeal that has been filed before the Hon'ble Supreme Court in C.A.Nos.2039 and 2940 of 2011, they had given up their claim in view of the deletion of the second proviso to Rule 57 R(2) of the Central Excise Rules, 1944 prior to period of demand. The impugned show cause notices now issued in respect of the very same machineries/capital goods albeit on a different ground is not maintainable.

20. He would further submit that till their appearance before the 1st respondent pursuant to orders of this Court at no point in time has the respondents raised the issue of the User Test Certificate and have never entertained doubt that the capital goods have not been used for generating electricity. This appears to be an attempt to over-reach the orders passed by this Court on 28.06.2023. He would further contend that the show cause notices by themselves are time-barred. Under Section 11A(11) of the Central Excise Rules, the adjudication should take place within a period of 3 years or latest within a period of 5 years of the issue of the show cause notice. In the case on hand to date no adjudication has taken place. It is also his contention that the judgments in the ***Jawahar Mills Ltd*** and the ***Rajasthan Spinning & Weaving Mills*** would have no relevance to the case on hand, as there was no doubt raised at any point of time by the respondents that the components in respect of which CENVAT Credit was sought for was not actually used in the co-generation plant.

21. Heard the counsels on either side.

22. The records would show that earlier show cause notices had been issued by the respondents denying CENVAT Credit to the petitioner on the ground that the electricity that was generated was not being used captively but was being sold outside to the Tamil Nadu Electricity Board and therefore they are not entitled to a CENVAT Credit. This issue has attaining finality with the orders passed against the 1st respondent right up to the Hon'ble Supreme Court where the respondents had withdrawn the appeal, C.A.Nos.2039 to 2040 of 2011.

23. The show cause notices which are the subject matter of these writ petitions have been issued between the period 2009 to 2015 on the ground that the machineries/components which are used in the co-generation plant is being used for generating electricity which is an

exempted commodity and therefore the petitioners are not entitled to CENVAT Credit. This conclusion has been arrived at by applying the provisions of Rule 6(4) of the CENVAT Credit Rules 2004 which states that CENVAT Credit cannot be allowed on capital goods which are used exclusively in the manufacture of exempted goods other than the final products which are exempted from whole of duty of Excise duty leviable. Therefore, it is clearly seen that the respondents whose earlier show cause notices have reached finality are attempting to raise a new issue which was not pleaded earlier. Their demand for User Test Certificates based on the judgements of the Hon'ble Supreme Court in the ***Jawahar Mills Ltd*** and the ***Rajasthan Spinning & Weaving Mills*** is also not maintainable for the simple reason that at no point in time either in the earlier show cause notices or in the show cause notices now impugned has the respondents raised a doubt that all the components in respect of which CENVAT Credit has been availed are not being put to use in the co-generation plant. This stand has been taken up for the first time only when the petitioner had appeared before the 1st respondent after the order of this Court dated 28.06.2023. Further the show cause notice clearly states that the components are being used to generate electricity which is an exempted good; therefore is clear that the respondents had no doubt that the equipments were being put to use for generating electricity.

24. The demand for the User Test Certificate is on the basis that the Hon’ble Supreme Court has given its stamp of approval to the production of the User Test Certificate in its judgements in the ***Jawahar Mills Ltd*** and the ***Rajasthan Spinning & Weaving Mills*** which have been referred earlier. Therefore, it is necessary to consider the dicta laid down in the above two cases.

25. In the case of ***Jawahar Mills Ltd,*** the Hon'ble Supreme Court was considering the issue of availing MODVAT Credit in respect of certain items by the manufacturers treating them as capital

goods in terms of rules 57 Q of the Central Excise Rules 1944. The controversy in that case was as to whether these items would come within the ambit of capital goods as set out in Rule 57-Q. The learned Judges had observed that the definition of capital goods is wide and capital goods could be machines, machinery, plants, equipment and apparatus tools or appliances which are used for producing or processing any goods or for bringing about any change in any substances for manufacturing of the final products qualifying for availing a MODVAT Credit. In the said case, the Hon’ble Supreme Court had observed that at no point in time before the authorities had the revenue raised a case that the items do not satisfy the requirements of capital goods within the meaning of the Rule 57-Q, on the ground of User Test and it was only before the Hon'ble Supreme Court that the same has been urged. Therefore, the learned Judges had refused to remand the matter for fresh decision. The learned Judges had simply given its concurrence to an argument advanced by the learned Additional Solicitor General that the user of a particular component would determine whether or not it qualifies the requirement of clause 1A of the definition of capital goods as given in the explanation to Section 57-Q of the Central Excise Rules. This is only a reference in the passing. In fact, a reading of the said judgement nowhere indicates that the Hon'ble Supreme Court had directed the production of a User Test Certificate.

26. This Judgement has been followed by the Supreme Court once again in the case of ***Rajasthan Spinning & Weaving Mills*** which is the other judgement on the basis of which the respondents seek to justify their demand for a User Test Certificate. In the case of ***Rajasthan Spinning & Weaving Mills*** the issue was whether the steel plates and M.S channels used for the fabrication of the chimney in a diesel generating shed would qualify to be termed as capital goods and thereby entitled to MODVAT Credit. Ultimately, the Hon'ble Supreme Court had held that the steel plates and M.S channels fall within the definition of capital goods and therefore the petitioner was entitled to

avail MODVAT Credit. In the said case the Hon'ble Supreme Court had applied the "User Test" to come to the conclusion that the steel plates and M.S channels are used for the fabrication of the chimney and would therefore fall within the purview of Serial No.5 of table attached to Rule 57Q of the Central Excise Rules, 1944. These judgments have not set a precedent that a User Test Certificate is mandatory. On the contrary, in the case of ***Jawahar Mills Ltd,*** the Hon'ble Supreme Court had observed that the plea of User Test had not been raised earlier by the respondent/ revenue and therefore, they had become disentitled to raise the plea. In the case of ***Rajasthan Spinning & Weaving Mills,*** the User Test has been used in the context of coming to the conclusion as to whether the steel plates and M.S Channel are being used for the fabrication of chimney.

27. In the case of EID Parry, the show cause notice issued has itself specifically called upon EID Parry to show cause as to how they had availed the CENVAT Credit of various capital goods, components,

spare and input services apart from claiming interest and penalty. Therefore, the very show cause notices that had been issued required EID Parry to show usage of the components in the co-generation plant whereas in the case of on hand, the show cause notices earlier issued was to show cause as to why CENVAT Credit claim availed should not be recovered since the electricity that has been generated was not being Captively used and was sold out. In the show cause notices which are the subject matter of instant writ petitions, they have been asked to show cause as to why the CENVAT Credit given to them should not be denied since the electricity that was being generated is an exempted product.

28. The show cause notices as already submitted have been issued between the years 2009 to 2015 and nearly 7 to 12 years have lapsed in the issue of the 12 show cause notices. In fact, the respondents have not moved a little finger till the writ petition was filed by the writ petitioner to adjudicate on these Show Cause Notices. Sub

Section 11 of Section 11A of the Central Excise Act would read as follows:-

*"(11) The Central Excise Officer shall determine the amount of duty of excise under Sub-section(10) -*

*(a) Within six months from the date of notice where it is possible to do so, in respect of cases falling under sub-section (1);*

*(b) within [two years] from the date of notice, where it is possible to do so, in respect of cases failing under sub-section (4)."*

29. Therefore, in respect of the show cause notices subject matter of these writ petitions, the period for adjudications came to an end much earlier. Therefore, in the light of the above discussion and on the ground of delay the show cause notices cannot be sustained. The issue

of producing a User Test Certificate not having been demanded in the impugned Show Cause Notices and the order dated 28.06.2023 having been passed on the joint submissions of the counsel where once again there was no reference to the User Test Certificate, the Review petitions have to be allowed and since the question of CENVAT Credit having reached finality, and the impugned Show Cause Notices are issued on a new ground with reference to the subsequent periods of the writ petitions have to be allowed. The contention that the writ filed challenging a show cause notice is not maintainable cannot be countenanced on the ground that the very basis of the show cause notice is only to revive the earlier demand of the respondents on a new ground and further by reason of the provisions of Section 11A(11) of the Central Excise Act, the time for taking further action on the show cause notices has long expired. Therefore, the writ petitions/review petitions are allowed and the show cause notices subject matter of the writ petitions are quashed.

30. The learned senior counsel for the writ petitioners/review petitioner would submit that they are not pressing their argument with reference to the input credit since they have already made the payments. These Review petitions and consequently the writ petitions are allowed.

**10.10.2023**

Index: Yes/No
Internet : Yes/No
Neutral Citation: Yes/No
shr/srn

To

1.The Commissioner of CGST & Central Excise,
No.1 Williams Road, Cantonment,
Trichy, Tamil Nadu - 600001.

2.The Deputy Commissioner of Central Excise & Service Tax,
Central Excise & Service Tax 2 Division,
No.1 Williams Road, Cantonment,
Trichy, Tamil Nadu - 600001.

3.The Assistant Commissioner of Central Excise & Service Tax,
Central Excise & Service Tax 2 Division,
No.1 Williams Road, Cantonment,
Trichy, Tamil Nadu - 600001.

4.The Superintendent of Central Excise & Service Tax,
Central Excise Range,
Oppillatha Ammankovil Street,
Ariyalur, Tamil Nadu.

**P.T. ASHA, J,**

shr/srn

**Pre-Delivery Order**
**in**
**Review Appln.(MD)Nos.139 to 150 of 2023**
**in W.P.(MD).Nos.6895 to 6906 of 2022**
**and**
**W.M.P.(MD).Nos.16041, 16043, 16031, 16035, 16039, 16017, 16020, 16022, 16023, 16025 & 16029 of 2023**

**10.10.2023**