



W.P. (MD) Nos. 26755 and 26756 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P. (MD) Nos. 26755 and 26756 of 2022

and

W.M.P.(MD)Nos. 20960 and 20962 of 2022

Ambika Cotton Mills Limited, Unit – II,
Represented by its Chairman and Managing Director,
P.V. Chandran,
Kanniyapuram-Ellaipatty Road,
Kanniyapuram P.O.,
Dindigul – 624 308.

... Petitioner in both petitions

Vs.

1.The Deputy Commissioner,
Office of the Deputy Commissioner of Customs,
Customs Preventive Unit,
Central Revenue Buildings, IV Floor,
Bibikulam, Madurai – 625 002.

2.The Development Commissioner,
Madras Export Processing Zone,
Ministry of Commerce,
Administrative Office Building,
National Highways,
45, Tambaram, Chennai – 600 045.

...Respondents in both petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the



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constitution of India, to issue a Writ of Certiorari, to call for the records relating to Order in Original Nos.18/2022-23 and 19/2022-23 dated 01.11.2022 passed by the first respondent and quash the same as arbitrary and illegal.

For Petitioner : Mr. Joseph Prabakar (in both Wps)
For Respondents : Mr. N.Dilipkumar (in both WPs)
Senior Standing Counsel
assisted by Mr. K.Prabhu
Junior Standing Counsel

COMMON ORDER

Heard Mr. Joseph Prabakar, Learned Counsel for the Petitioner, and Mr. K.Prabhu, Learned Standing Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The chronological sequence of events leading to the filing of this Writ Petition are as follows:-



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- (i) The Petitioner in the Writ Petitions in W.P. (MD) Nos. 8104 and 8105 of 2008 had challenged the Show Cause Notices in C. No. V/52/15/12/2008 Adjn dated 11.07.2008 and 21.07.2008 issued by the Assistant Commissioner of Central Excise, which was declined to be entertained by this Court in the order dated 06.12.2013, but liberty was granted to the Petitioner to submit its reply within a period of 30 days from the date of receipt of its copy.
- (ii) However, the Petitioner did not send any reply to those show cause notices and instead sought review of that order in Review Applications (MD) Nos. 16 and 17 of 2014, which were dismissed as withdrawn by order dated 11.10.2022 passed by the Court.
- (iii) After condoning the delay in filing the intra-court Appeals in W.A. (MD) Nos. 1319 and 1320 of 2020 preferred by the Petitioner against the order dated 06.12.2013 in W.P. (MD) Nos. 8104 and 8105 of 2008, the same were also dismissed as withdrawn by order dated 16.12.2022 passed by the Division Bench of this Court.
- (iv) During the pendency of the said Writ Appeals, the First Respondent had proceeded to pass final orders in C. No. VIII/48/17/2022-Cus and C. No. VIII/48/18/2022-Cus dated 01.11.2022 pursuant to the show



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cause notices dated 11.07.2008 and 21.07.2008, which are impugned
in these Writ Petitions.

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3. In the absence of any interim order restraining the passing of final orders in furtherance to the aforesaid show cause notices in the earlier proceedings referred supra, the First Respondent cannot be faulted for having decided the matter. At the same time, having due regard to the fact that the Petitioner had been *bonafide* prosecuting by way of review and appeal till 16.12.2022, it would be appropriate that the Petitioner should be afforded an opportunity of contesting the case on terms. Inasmuch as the Petitioner was responsible for the protraction of the proceedings, it should pay a sum of Rs. 50,000/- as costs in each of these cases in favour of the First Respondent, and Learned Counsel for the Petitioner has produced Demand Drafts Nos. 179249 and 179250 dated 23.12.2022 drawn on Axis bank towards the same and its receipt is acknowledged by Learned Counsel for the First Respondent. It is represented by Learned Counsel for the Petitioner that the Reply dated 23.12.2022 to the show cause notices has been sent to the First Respondent after the filing of these Writ Petitions and its copy has been produced.



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4. In view of the foregoing discussion, these Writ Petitions are disposed on the following terms:-

- (i) the impugned orders in C. No. VIII/48/17/2022-Cus and C. No. VIII/48/18/2022-Cus dated 01.11.2022 passed by the First Respondent are set aside and the matter is remitted for fresh decision before the First Respondent, who shall duly consider the reply sent by the Petitioner to the Show Cause Notices in C. No. V/52/15/12/2008 Adjn. dated 11.07.2008 and 21.07.2008.
- (ii) if it is found that any other details or supporting documents are necessary, the same shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 clear working days for the same;
- (iii) in the event of not being satisfied with the said requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner to explain its position in that regard;
- (iii) the Petitioner shall appear on the dates fixed for hearings by the First Respondent and shall co-operate for the expeditious disposal of the cases;



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- (iv) a reasoned order shall be passed by the First Respondent dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated by 30.04.2023 under written acknowledgment;
- (v) consequently, the connected miscellaneous petition is closed; and
- (vi) there shall be no order as to costs.

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Index : Yes/No

Note: Issue order copy by 14.02.2023.



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To

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P.D.AUDIKESAVALU,J.

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