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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

W.A.No.1740 of 2010
and
M.P.No.1 of 2010

1.The Additional Director General
Directorate General of Central Excise Intelligence,
South Zonal Unit, C -3, C Wing,
Rajaji Bhavan, Besant Nagar,
Chenai – 600 090.

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

vs

M/s.Rajam Industries Pvt Limited,
No.2/95, Mount Poonamallee Road,
rep. by its Managing Director Mr.D.Selvaraj,
Kattupakkam,
Chennai – 600 056. .. Respondent

Prayer : Appeal filed under Section 15 of the Letters Patent against order dated 07.06.2010 passed in W.P.No.13863 of 2005.

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| For 1st Appellant | : | Mr.Rajnish Pathiyil<br>Senior Panel Counsel |
| For 2nd Appellant | : | Mr.A.P.Srinivas,<br>Senior Standing Counsel |
| For Respondent | : | Mr.Satish Parasaran,<br>Senior Advocate<br>for Mr.K.Ramakrishna Reddy |

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JUDGMENT
*(Delivered by Dr. ANITA SUMANTH.,J)*

Having heard Mr.Rajnish Pathiyil, learned Senior Panel Counsel for 1st appellant, Mr.A.P.Srinivas, learned Senior Standing Counsel for 2nd appellant and Mr.Satish Parasaran, learned Senior Advocate, for Mr.K.Ramakrishna Reddy, learned counsel, appearing for the respondent, we are of the view that there is no necessity to intervene in the impugned order of the writ court dated 07.06.2010. At paragraph 60 of the aforesaid order, learned Single Judge has, while setting aside the show-cause notice dated 30.6.2003 granted liberty to the appellants to issue a fresh show-cause notice, albeit, pointing out certain infirmities in the impugned notice.

2. One of such alleged infirmities refers to the quantification of the demand itself which is a statutory mandate. The authorities are, in terms of Section 11 (a) (4) of the Central Excise Act, required to quantify the demand. Such quantification is only a prima facie quantification, based on the averments set out in the show-cause notice itself. Needless to say, the final demand, if any raised, would depend on the process of adjudication and finalization of the show cause notice.

3. Yet another point which is put forth is that the complete relied-upon documents based on which the show-cause notice has been issued, have not been supplied to the respondent. Suffice it to say that the respondent is at liberty to seek such documents and statements, as have been relied upon by the authorities and referred to in the show-

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cause notice, and it is incumbent upon the authorities to furnish such documents and statements to enable the assessee / respondent to make an appropriate and informed response.

4. This writ appeal is, in fine, disposed reiterating the liberty available to the appellants to issue a fresh show-cause notice in a manner known to law and complete the proceedings for adjudication within sixteen (16) weeks from date of issuance of show-cause notice, in accordance with law and in line with the principle of natural justice. Needless to say, all observations made by the writ court under the impugned order as well as the contents of the show-cause notice itself, are only prima facie, subject to the process of final adjudication. No costs. Connected miscellaneous petition is closed.

[A.S.M., J] [G.A.M., J]
20.08.2024

Index:Yes/No
Neutral Citation:Yes
ssm

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<u>DR. ANITA SUMANTH,J.</u>
<u>and</u>
<u>G. ARUL MURUGAN.,J</u>

ssm

<u>W.A.No.1740 of 2010</u>

<u>20.08.2024</u>