IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.24085 of 2008

M/s.Prime International India Pvt. Ltd.
723/2, MBT Cross Road
Ranipet – 632 401. .. Petitioner

Vs.

1. The Commissioner of Central Excise (Service Tax)
   The Commissioner of Central Excise
   Chennai – III Commissionerate
   121, Mahathma Gandhi Road
   Chennai – 600 034.

2. The Additional Commissioner of Central Excise (Service Tax)
   Chennai – III Commissionerate
   121, Mahathma Gandhi Road
   chennai – 600 034. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records of the case in order in original No.12/2008, dated 25.07.2008 passed by the 2nd respondent herein and to quash the same.

For the Petitioner : Mr.T.Ramesh

For the Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER
(Made by the Hon'ble Chief Justice)

Heard Mr.T.Ramesh, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondents.

2. Learned counsel for the petitioner submits that the petitioner has filed the appeal against the order in original and the petitioner has also filed a writ petition challenging Rule 5 of the Taxation of Services (Provided from outside India and received in India) Rules, 2006.

3. Learned counsel further submits that the Karnataka High Court, in the case of *Commissioner of Service Tax vs. Aravind Fashions Limited*[1], has already dealt with similar set of facts. The petitioner is entitled for the benefit of CENVAT credit and it is further submitted that the Tribunal has also relied on the said judgment in

1*(2012) 15 VST 310*

the case of the petitioner for the subsequent period.

4. As an appeal against the order in original is still pending, the petitioner may agitate all these aspects before the appellate authority, which would be considered by the appellate authority on its own merits.

5. It is needless to state that as the appeal is still pending and there was a stay operating for all these years, no coercive steps shall be taken against the petitioner till the appeal is decided on merits.

6. The writ petition, as such, stands disposed of. There shall be no orders as to costs. Consequently, M.P.No.1 of 2008 is closed.

(S.V.G., CJ.) (J.S.N.P., J.)

03.04.2024

Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
J.SATHYA NARAYANA PRASAD, J.

(drm)

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(2/2)