IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Mr. JUSTICE D.BHARATHA CHAKRAVARTHY

Review Application No.186 of 2024

M/s.Ruchi Worldwide Ltd.,
Through its Senior Officer
S.Purushothama Kumar
Royapuram, Chennai 600 013 .. petitioner

Vs.

1.The Union of India
Rep. by its Secretary
Department of Revenue
Ministry of Finance
North Block, New Delhi 110 001

2.The Commissioner of Customs (Sea Port)
Custom House, 33, Rajaji Salai
Chennai

3.The Deputy Commissioner of Customs (Group 1 & 2)
Custom House, 33, Rajaji Salai
Chennai .. Respondents

Review Application filed under Order XLVII Rule 1 CPC read with Section 114 CPC to review the order dated 14.03.2024 passed in W.P.No.15393 of 2001.

For petitioner : Mr.Rajesh Rawal

O R D E R

(Made by S.S.SUNDAR, J.)

This review application is filed seeking to review the order dated 14.03.2024 passed in W.P.No.15393 of 2001, dismissing a batch of writ petitions filed by M/s.Ruchi Worldwide Ltd. represented by its Authorised Signatory P.N.Prabhakar.

2. The writ petition filed by the petitioner in 2001 challenging the notification that was issued by the Union Bank of India in 2001, was dismissed by this Court, by order dated 14.03.2024.

3. One of the submissions before this Court by the learned counsel for the petitioner is that the petitioner filed a writ petition for quashing of notification in 2001 and several developments had taken place after the notification, when the matter was heard. It is contended that no liability of the erstwhile company can be fastened on the new entity in whom the ownership has vested. It is admitted by the learned counsel for the petitioner that due to lack of communication between the petitioner and the counsel, the subsequent developments in the petitioner company was not brought to the notice of this Court and therefore,

the liability by virtue of the notification, cannot be fastened today, on the successor-in-interest of the writ petitioner.

4. The next submission of the learned counsel for the petitioner is that this Court has failed to consider the judgment of the Hon'ble Supreme Court in *Union of India Vs. Param Industries Limited [(2016) 16 SCC 692],* on its true letter and spirit, as the impugned notification cannot be made applicable to the goods, in respect of which the petitioner had submitted bill of entry on 03.08.2001. It is contended that the impugned notification though dated 03.08.2001, it can come into force only on 06.08.2001, when it was made available for public sale.

5. The learned counsel relying upon the judgment of *Param Industries* (referred *supra)* submitted that this Court failed to see that the Hon'ble Supreme Court in *Union of India and Others Vs. G.S.Chatha Rice Mills and Another [(2021)2 SCC 209]*, has not overruled the judgment in the case of *Param Industries* (referred *supra)*.

6. This Court has examined both the submissions of the learned counsel

for the petitioner. A review cannot be maintained by referring to certain facts which have been never brought to the notice of the Court. On the admitted facts, a point which was never argued and facts which were never placed, cannot be basis for review of the order. Rehearing a case on new set of facts is impermissible. It is not the case of the petitioner that they discovered the facts, only after the disposal of the writ petition.

7. The Hon'ble Supreme Court in *Union of India Vs. G.S.Chatha Rice Mills [(2021) 2 SCC 209],* has held as follows :

> *"98. Param Industries [Union of India v. Param Industries Ltd., (2016) 16 SCC 692] , inasmuch as it imposed an additional requirement of "offering for sale", outside of the prescribed statutory scheme under Sections 14(2) of the Customs Act, 1962, appears to be contrary to pre-existing principles. Having said this, we do not wish to rule on the validity of Param Industries or its consequent impact on decisions that have relied on it. In the present judgment it is not necessary to take recourse to the line of reasoning in Param Industries. The situation at hand, operates on a landscape which is significantly altered by the regulatory regime in the electronic age where, both uploading of notifications in the e-gazette and filing of bills of entry are in the electronic form. As we have previously noted, Notification No. 5/2019 was uploaded in the e-gazette at a specific time and date and cannot apply to bills of entry which were presented on the customs automated EDI system prior to it, attracting the legal fiction set out in Regulation 4(2) of the 2018 Regulations. Therefore, Param Industries does not have any bearing on the case at hand."*

8. This Court consciously considered the judgments and interpreted the judgment of the Hon'ble Supreme Court in *G.S.Chatha Rice Mills* (referred *supra*) as one disapproving the judgment of the Hon'ble Supreme Court in *Param Industries* (referred *supra)*. It is pertinent to mention that the subsequent judgment in *G.S.Chatha Rice Mills* (referred *supra*) is by a larger Bench of the Hon'ble Supreme Court. In a review petition, we will not examine whether the view expressed is correct or not.

9. Therefore, this Court finds no merit in this review application and accordingly, it is dismissed. No costs.

[S.S.S.R.,J.] [D.B.C., J.]
06.12.2024

Index : Yes/No
Neutral Citation : Yes/No
gya

To
1.The Secretary
Union of India
Department of Revenue
Ministry of Finance
North Block, New Delhi 110 001

2.The Commissioner of Customs (Sea Port)
Custom House, 33, Rajaji Salai, Chennai

3.The Deputy Commissioner of Customs (Group 1 & 2)

Custom House, 33, Rajaji Salai, Chennai

S.S.SUNDAR, J.
AND
D.BHARATHA CHAKRAVARTHY, J.

gya

Rev. Aplw. No.186 of 2024

06.12.2024