BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)Nos.12891 to 12919 of 2022
and
W.M.P.(MD)Nos.9148 to 9174 of 2022

W.P.(MD)No.12891 of 2022:-

M/s Raajco Spinners Pvt. Ltd.,
Represented by its General Manager,
Shri G.Thirugnana Sambandam,
Guziliyamparai Road (SH-74),
D.Gudalur, Vedasandur Taluk,
Dindigul - 624 620. ... Petitioner

Vs.

1.The Ex-Officio Additional Secretary to the Government,
Revision Authority, 8th Floor, World Trade Centre,
Cuff Parade, Mumbai - 400 005.

2.The Commissioner of CGST and Central Excise (Appeals),
No.1, Williams Road, Cantonment,
Trichy - 620 001.

3.The Deputy Commissioner of GST and Central Excise,
Karur Division,
No.15, Gowripuram Extension Area,
Annanagar Main Road, Karur - 639 002. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Order No.320/2022/CX(WZ)/ASRA/MUMBAI, dated 24.03.2022 (Common order 320-348/2022/CX(WZ)/ASRA/MUMBAI dated 24.03.2022) passed by the first respondent (in F.No.195/72-80/SZ/19-RA, F.No. 195/163-177/SZ/19-RA and F.No.195/214-218/SZ/19-RA), and quash the same and direct the third respondent to sanction rebate claim dated 05.10.2017 for Rs.2,20,613/- within a time frame as may be fixed by this Court.

For Petitioner	: Mr.G.Natarajan
For Respondents	: Mr.R.Nandhakumar Senior Panel Counsel Assisted by Mrs.S.Ragaventhree Junior Panel Counsel

COMMON ORDER

The issue involved in these batch of Writ Petitions is now covered by a detailed order passed by this Court on 31.08.2023 in **M/s.Jayavarma Textile Private Limited, Rep. by P.Sabarinath, Managing Director vs. The Assistant Commissioner of CGST and Central Excise, Erode and another** [W.P.No.24669 of 2022 etc. batch].

2. The respondents have filed Para-wise comments and submitted that the order passed by this Court in the above mentioned case, is proposed to be appealed before the Division Bench of this Court. However, there are no records to indicate that any stay has been obtained by the Revenue against the above said order.

3. In all these cases, the issue relates to rebate under Rule 18 of the Central Excise Rules, 2002, which is an export incentive for an Exporter for exporting goods. The submission of the respondents that dual benefits have been availed by the petitioners in these cases, has been dealt with at length in the order passed by this Court in **M/s.Jayavarma Textile Private Limited case** [cited supra], vide order dated 31.08.2023.

4. Paragraphs 50 to 53 of the said order reads as under:-

> *"50. The restrictions contained in Notification No.131/2016-Cus.(N.T.) dated 31.10.2016 particularly in paragraph 11 are to be read along with Notification No.43/2001-CE (NT) dated 26.06.2001 issued under Rule 19(2) & (3) of the Central Excise Rules, 2002 for procurement of excisable goods without payment of duty form used in the manufacturer of export goods.*
>
> *51. In this case admittedly no refund of Input Tax Credit has been availed by the petitioners on inputs under Rule 5 of Cenvat credit under Cenvat Credit Rules, 2004. Whether the petitioners were entitled to All Industry Rates (AIR) of Duty*

Drawback in terms of Notification No.131/2016-Cus. (N.T.) dated 31.10.2016 during the period in dispute and earlier in terms of Notification No.98/2013-Cus-(N.T.) dated 14.09.2013, Notification No.110/2014-Cus.(N.T.) dated 17.11.2014 and Notification No. 92/12-Cus.(N.T.) dated 04.10.2012 is for the "Proper Officer" under the Customs Act, 1962 to determine by invoking Section 28 of the said Act.

52. The question of denial of rebate or duty drawback to the respective petitioners would arise only if the petitioners had claimed input tax credit on the inputs and utilized such input tax credit availed on the inputs used in the manufacture of export products for discharging the duty liability to avail rebate under Rule 18 of Central Excise Rules, 2002.

53. Merely because duty on export goods were discharged by debiting the Cenvat amount availed on the capital goods in the Cenvat Credit Account would not mean that benefit of rebate under Rule 18(1) of the Central Excise Rules, 2002 read with Notification No.19/2004-CE (NT) dated 06.09.2004 can be denied to the respective petitioner. Even if Duty Drawback was availed wrongly, it is to be denied by the Proper Officer under the machinery prescribed under the Customs Act, 1962."

5. In view of the above, these Writ Petitions stand allowed. Consequently, the impugned orders stand quashed with consequential relief to the petitioner. The respondents are directed to restore the benefit that was sought to be denied to the petitioner as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No
Neutral Citation: Yes / No **30.04.2024**
smn2

To

1.The Ex-Officio Additional Secretary to the Government,
Revision Authority, 8th Floor, World Trade Centre,
Cuff Parade, Mumbai - 400 005.

2.The Commissioner of CGST and Central Excise (Appeals),
No.1, Williams Road, Cantonment,
Trichy - 620 001.

3.The Deputy Commissioner of GST and Central Excise,
Karur Division,
No.15, Gowripuram Extension Area,
Annanagar Main Road, Karur - 639 002.

C.SARAVANAN, J.

smn2

Common order in
W.P.(MD) Nos.12891 to 12919 of 2022

30.04.2024