IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.21188 of 2022
and
W.M.P.No.20185 of 2022

M/s.Glovis India Private Ltd,
Rep by its COO and the Authorised Officer,
A V Ramana, A/a 57 years,
Old No.109, New No.50, Mannur Village,
Sriperumbudur Taluk,
Kanchipuram – 602 105. ... Petitioner

Vs.

1.The Commissioner of Central Tax and
Central Excise (Outer),
Newry Sonex Towers,
2nd Avenue, 12th Main Road,
L Block, Anna Nagar (West),
Chennai – 600 040.

2.The Deputy Commissioner of Central Excise,
Poonamallee Division,
Chennai IV Commissionerate,
C-48, TNHB Building, 2nd Avenue,
Anna Nagar, Chennai – 600 040.

3.The Assistant Commissioner of Central Tax and
Central Excise,
Irrungattukottai Division,
Chennai – Outer Commissionerate,
C-48, TNHB Building, 2nd Avenue,
Anna Nagar,
Chennai – 600 040. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call upon the records in Order-in-Original No.04 to 15/2022-RF dated 01.06.2022 on the file of the 3rd respondent and the Show Cause Notices Nos.11/2012-RF dated 03.10.2012, 12/2012-RF & 13/2012-RF dated 10.10.2012, 12 to 15/2013-RF, dated 26.04.2013, 22 to 25/2013-RF dated 28.06.2013 and 01/2014-RF dated 29.01.2014 on the file of the 2nd respondent and quash the same and subsequently, direct the 3rd respondent to pass orders expeditiously on the Rebate Applications filed before the 3rd respondent on the exports made during October 2011 to December 2012 under Rule 18 of the Central Excise Rules, 2002 following the Final Order No.40787/2017 dated 15.05.2017 of the Central Excise, Customs and Service Tax Appellate Tribunal.

For Petitioner : Mr.J.V.Niranjan

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

ORDER

In this Writ Petition, the petitioner has challenged the impugned Order-in-Original which has been passed pursuant to Show Cause notices issued to the petitioner seeking to reject the rebate claim filed by the petitioner under Rule 18 of Central Excise Rules, 2002 read with relevant notification on the ground that the petitioner has not filed certain documents as tabulated in Paragraph 6.3 of the impugned Order-in-Original.

2. The learned counsel for the petitioner would submit that the issue has attained finality in as much as the activity undertaken by the petitioner has been held to be a manufacturing activity by CESTAT vide its Final Order No.40787/2017 dated 15.05.2017 in petitioner's own appeal in Appeal No.E/40619/2013 before CESTAT.

3. The learned counsel for the petitioner further submits that this Court had also earlier directed the respondents vide its order dated 12.01.2022 in W.P.No.9705 of 2021 to pass orders on merits in respect

of the 12 Show Cause Notices which culminated in the impugned order. It is submitted that despite an order of this Court dated 12.01.2022 in W.P.No.9705 of 2021, the impugned order has been passed.

4. The learned counsel for the petitioner submits that all the documents that are required for substantiate the rebate claim were filed on various dates under Rule 18 of the Central Excise Rules, 2002 along with the rebate claims and therefore the impugned order has been erroneously passed stating that the petitioner has not filed some of the documents mentioned in Paragraph No.10 of the impugned order and therefore the impugned order is liable to be quashed with a consequential direction to the respondents to sanction the rebate claim.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

6. Even if the documents were filed and were not considered by the respondents, Court can only direct the respondents to re-examine those documents and pass fresh order. On the other hand, it is the categorical stand of the respondents/revenue that the petitioner has not filed some of the documents that are required for sanctioning the rebate claim filed by the petitioner on various dates. The petitioner can be given on more chance to file the documents and explain the case. Hence, the case is to remitted back to the respondents to pass a fresh orders on merits afresh. The petitioner is directed to produce all the copies of the documents mentioned in Paragraph 6.3 of the impugned order.

7. The impugned order which stands quashed shall be treated as addendum to the Show Cause Notices issued to the petitioner to reply with the same. Pending Show Cause Notices shall also be considered and disposed on merits. The respondents shall scrutinise the rebate claims and pass appropriate orders either allow or reject the rebate claim only on merits within a period of three months from the date of receipt of a copy of this order.

8. This Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

08.01.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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