IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM

THE HON'BLE DR. JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR. JUSTICE C. KUMARAPPAN

W.P. Nos. 13712 of 2017 & 25052 of 2003

&

W.M.P. Nos. 14902 of 2017 & 30811 of 2003

W.P.No. 13712 of 2017

M/s. Deccan Alloys (P) Limited,
rep. by its General Manager,
B. Gopalakrishnan,
No. 62, Sipcot Industrial Complex,
Hosur – 635 109. ..Petitioner

Vs.

1. Commissioner of Central Excise (Appeals-I),
Central Excise Building,
26/1, Mahatma Gandhi Marg,
Nungambakkam,
Chennai – 600 034.

2. The Assistant Commissioner of Central Excise,
Central Excise Division -1,
Thally Road, Hosur – 632 126.

3. The Commissioner of Central Excise,
Chennai III Commissionate,
26/1, Mahatma Gandhi Road,
Chennai – 630 034.

4. The Assistant Commissioner of Central
Excise (Preventive),
Office of the Commissioner of Central
Excise,
Chennai III Commissionate,
26/1, Mahatma Gandhi Road,
Chennai 600 034. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the order of the 4th respondent in C.No.IV/16/51/97 -CD III dated 03-04-1998/07-04-1998 and the consequential order of the 1st respondent in Order in Appeal No. 35/2017 (CDA-I) dated 31.01.2017and quash the same and direct the respondents not to take any coercive steps to recover the sum of Rs.1,82,63,000/- being the differential duty determined based on te Annual Capacity of Production said to have been fixed by the 3rd respondent i.e., Commissioner of Central Excise, Chennai as 31,773,630 MTs, in exercise of powers conferred under Rule 5 of Hot Re-rolling Steel Mills Annual Capacity Determination Rules, 1997, until the Hon'ble Supreme Court finally disposes C.A. No. 7825 of 2014.

For Petitioner	::	Mr.A. Govindaraj for M/s.C. Uma
For Respondents	::	Mr.A.P. Srinivas, Senior Standing Counsel

W.P. No. 25052 of 2003

M/s. Deccan Alloys (P) Limited,
rep. by its General Manager,
B. Gopalakrishnan,
No. 62, Sipcot Industrial Complex,
Hosur – 635 109. ..Petitioner

Vs.

1. Union of India,
rep. by its Secretary,
Ministry of Finance,
North Block,
New Delhi.

2. Assistant Commissioner
of Central Excise,
Hosur I Division,
Thally Road,
Hosur – 635 126. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Declaration to declare that Rule 5 of the "Hot Re-Rolling Steel Mills Annual Capacity Determination Rules, 1997" and consequential demand notice of the 2nd respondent having reference C.No.IV/09/32/99Adj dated 25.06.2003 in Order-in-Original No. 36/2003 demanding a sum of Rs.1,82,63,090/- as differential excise duty payable under Section 3A of the Central Excise Act and a sum of Rs.1,82,63,090/- as penalty for the period September, 1997 to March, 2000 as ultra vires

Section 3A of the Central Excise Act, 1944, arbitrary, violative of Article 14 of the Constitution of India.

For Petitioner	::	Mr.K. Govindaraj for Ms.C. Uma
For Respondents	::	Mr.A.P. Srinivas, Senior Standing Counsel for R2

COMMON ORDER

(Made by DR. ANITA SUMANTH,J.)

Heard Mr.K. Govindaraj, learned counsel for the petitioner and Mr.A.P. Srinivas, learned Senior Standing Counsel appearing for Central Excise Department.

2. The challenge in W.P. No. 25052 of 2003 is to Rule 5 of Hot Re-Rolling Steel Mills Annual Capacity Determination Rules, 1997. Both the learned counsel will accede to the position that this very Rule has been challenged in other matters. Though the validity has been upheld by the Writ Court and thereafter by the Division Bench, as against the same, the Madras Steel Re-Rollers Association has carried the matter further in appeal which is pending before the Supreme Court in C.A. No. 7823 of 2014.

3. An identical challenge in some W.A. Nos. 1620 of 2003 and 1675 of 2003 had been taken up by the First Bench of this Court and we are given to understand that, after capturing the trajectory of the matter, the First Bench has directed the parties to abide by the judgment of the Supreme Court as and when delivered. A copy of the order of the Hon'ble Divisin Bench is not before this Court.

4. Be that as it may, since all learned counsel would concur on the aforesaid position, W.P. No.25052 of 2003 is closed awaiting the fate of C.A. No. 7823 of 2014.

5. This direction is for the reason that in W.P. No. 13712 of 2017, the appellate order dated 31.01.2017 applying Rule 5 of Hot Re-Rolling Steel Mills Annual Capacity Determination Rules, 1997 is challenged.

6. In light of the aforesaid, impugned order dated 31.01.2017 is set aside.

7. In the event that judgment in C.A. No. 7823 of 2014 is adverse to the assessee, then, impugned order dated 31.01.2017 will stand revived automatically and shall be communicated to the assessee by the authorities in accordance with law.

8. W.P. No. 13712 of 2017 stands disposed. No costs. Connected miscellaneous petitions are closed.

(A.S.M.J.) (C.K.J.)
27.03.2025

Index; Yes/No

Neutral Citation: Yes/No

nv

To

1. Commissioner of Central Excise (Appeals-I),
Central Excise Building,
26/1, Mahatma Gandhi Marg,
Nungambakkam, Chennai – 600 034.

DR. ANITA SUMANTH,J.
AND
C. KUMARAPPAN,J.

nv

2. The Assistant Commissioner of Central
 Excise,
 Central Excise Division -1,
 Thally Road, Hosur – 632 126.

3. The Commissioner of Central Excise,
 Chennai III Commissionate,
 26/1, Mahatma Gandhi Road,
 Chennai – 630 034.

4. The Assistant Commissioner of Central
 Excise (Preventive),
 Office of the Commissioner of Central
 Excise,
 Chennai III Commissionate,
 26/1, Mahatma Gandhi Road,
 Chennai 600 034.

W.P. No. 13712 of 2017
& 25052 of 2003

5. The Secretary,
 Ministry of Finance,
 North Block,
 New Delhi.

6. The Assistant Commissioner
 of Central Excise,
 Hosur I Division,
 Thally Road,
 Hosur – 635 126.

27.03.2025

W.P.No.13712 of 2017
and W.P.No.25052 of 2003
and WMP.No.14902 of 2017 &
and WMP.No.30811 of 2003

Dr.ANITA SUMANTH,J.
and
C.KUMARAPPAN,J.

(Order of the Court was made by Dr.ANITA SUMANTH.,J.)

This matter has come up under the caption 'for being mentioned'.

2.Let corrections in the cause title and prayer as indicated by the Registry be carried out by the Registry while issuing the order.

[A.S.M.,J] **[C.K.,J]**
07.07.2025

vs