BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P(MD)No.19678 of 2020

M/s.Carbolase Technologies,
3A/4, Kondasamy Layout,
Hope College,
Peelamedu,
Coimbatore – 641 004. ... Petitioner

Vs.

The Assistant Commissioner of Customs (DBK),
Custom House,
New Harbour Estate,
Tuticorin – 628 004. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 24.11.2020 passed by the respondent herein refusing to accept the request of the petitioner to release the refund of the IGST paid by them on the goods which were exported in terms of Section 96A of the Central Goods and Service Tax Act and quash the same as having been issued without jurisdiction, contrary to law and violative of the principles of judicial discipline and consequently direct the respondent herein to forthwith pay the refund to the petitioner along with applicable interest.

For Petitioner : Mr.N.Viswanathan

For Respondent : Mr.R.Nandakumar

JUDGMENT

Heard both sides.

2.The writ petitioner is an exporter of goods known as “activated carbonate” under 9 shipping bills. The petitioner had paid a sum of Rs.25,84,277/- towards IGST. The petitioner's case comes under what is known as zero rated supply. The petitioner sought refund of the IGST account paid by him by invoking Section 16(3) of IGST Act read with Section 54 of the CGST Act read with Rule 96 of CGST Rules. The petitioner's request was rejected by the respondent vide order dated 24.11.2020 by citing Circular No.37/2018 dated 09.10.2018. Challenging the same, this writ petition has been filed.

3.The issue raised in the writ petition is no longer *res integra*. The Hon'ble Division Bench of Gujarat High Court in the decision reported in ***2019 (7) TMI 472 (M/s.Amit Cotton Industries Through Partner, Veljibhai Virjibhai Ranipa Vs Principal Commissioner of Customs)*** had categorically held that the aforesaid circular cannot prevail over Rule 96.

The Hon'ble Division Bench observed that the circular will not save the situation for the Department.

4.In this view of the matter, the impugned order dated 24.11.2020 is set aside and the respondent is directed to refund a sum of Rs.25,84,277/- together with applicable interest to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

5.This Writ Petition is allowed accordingly. No costs.

[G.R.S., J.] [M.J.R., J.]
21.02.2025
4/4

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

To

The Assistant Commissioner of Customs (DBK),
Custom House,
New Harbour Estate,
Tuticorin – 628 004.

G.R.SWAMINATHAN,J.

AND

M.JOTHIRAMAN, J.

MGA

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4/4