

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29-2-2012

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.4256 of 2012 and
M.P.No.1 of 2012

M/s.Sueera Alloys Global Pvt. Ltd.,
Rep. By its Managing Director: C.Sukumaran
S.F.No.315/2, Kandampalayam,
Semblianallur, Avanashi,
Coimbatore-54.

.. Petitioner.

Versus

1. The Additional Commissioner of
Customs, Central Excise and Service Tax,
Office of the Commissioner of Customs,
Central Excise and Service Tax, No.6/7,
ATD Street, Race Course Road,
Coimbatore-641 018.

2. The Commissioner of Customs,
Central Excise and Service Tax (Appeals),
No.6/7, ATD Street, Race Course Road,
Coimbatore-641 018.

.. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorarified Mandamus, calling for the records relating to the Miscellaneous order No.04/2012-CEx in A.49/2011-CEx. Dated 14.2.2012, passed by the 2nd respondent and quash the same as arbitrary and unsustainable in law and further direct the 2nd respondent to dispose of the appeal of the petitioner, A.No.49/2011, on merits without insisting any deposit on any amount by the petitioner.

For Petitioner : Mr.K.Jayachandran

For Respondents : Mr.S.Thirumavalavan

O R D E R

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

2. At this stage of the hearing of the writ petition, the learned counsel appearing on behalf of the petitioner had submitted that the petitioner would deposit 25% of the total amount payable by the petitioner, as duty and penalty, as pre-deposit, for the hearing of the appeal, in Appeal No.49/2011, pending on the file of the second respondent.

3. The learned counsel appearing on behalf of the first respondent had no objection for this Court permitting the petitioner to pay the said amount, as stated above, for the hearing of the appeal, on merits.

4. Accordingly, the first respondent is directed to hear the appeal, in Appeal No.49/2011, on merits and pass appropriate orders thereon, within a period of three months from the date of receipt of a copy of this order, on the petitioner making a pre-deposit of 25% of the duty and penalty, as stated above, within a period of fifteen days from the date of receipt of a copy of this order.

4. On the failure of the petitioner to comply with the above said condition, the appeal in Appeal No.49/2011, will stand dismissed, as per the order of the second respondent, dated 14.2.2012. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Asst.Registrar

//True Copy//

Sub.Asst.Registrar

csh

To

1. The Additional Commissioner of Customs, Central Excise and Service Tax, Office of the Commissioner of Customs, Central Excise and Service Tax, No.6/7, ATD Street, Race Course Road, Coimbatore-641 018.

2. The Commissioner of Customs, Central Excise and Service Tax (Appeals), No.6/7, ATD Street, Race Course Road, Coimbatore-641 018.

1 cc to Mr.K.Jayachandran , Advocate, Sr.No.14133/12
1 cc to Mr.S.Thirumavalavan , Advocate, Sr.No.14276/12

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