
(2012) 02 MAD CK 0335

In the Madras High Court

Case No : Writ Petition No. 1379 of 2012 and M.P. No. 1 of 2012

M/s. Abiq Plastics Pvt. Ltd.

APPELLANT

Vs

The Additional Commissioner of Central Excise, Chennai I
Commissionerate, No. 26/1, Mahatma Gandhi Road,
Chennai-600 034

RESPONDENT

Date of Decision : 20-02-2012

Acts Referred:

Citation : (2012) 282 ELT 511

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : Hari Radhakrishnan, for the Appellant; Rajnish Pathiyil, Senior
Central Government Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice M. Jaichandren

1. This Writ Petition has been filed praying that this Court may be pleased to issue a Writ of Mandamus to direct the respondent to refrain from initiating denovo proceedings, pursuant to the final order, made in Final Order No.505-506/2011, dated 6.4.2011, pending disposal of the application for rectification of mistake, filed by the petitioner, bearing No.E/ROM/28.11, before the Customs, Excise & Service Tax Appellate Tribunal. The main contention of the learned counsel appearing for the petitioner is that the Customs, Excise & Service Tax Appellate Tribunal, is not sitting due to the vacancy in the post of Member (Judicial). Therefore, the application filed by the petitioner, in Application No. E/ROM/28.11, before the Customs, Excise & Service Tax Appellate Tribunal, could not be taken up for hearing. In the said application, the petitioner had prayed for a rectification in the final order passed by the Customs, Excise & Service Tax Appellate Tribunal, in Final Order No. 505-506/2011, dated 6.4.2011. In such circumstances, the learned counsel appearing on behalf of the petitioner had prayed that this Court may direct the respondent from initiating the denovo

proceedings, as per the final order passed by the tribunal.

2. The learned counsel appearing on behalf of the respondent had submitted that it would be open to the petitioner to file an appropriate application, before the Assistant Registrar of the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, for early hearing of the application made by the petitioner, in Application No. E/ROM/28.11, by way of a special sitting. As such, this Court is not inclined to interfere with the order passed by the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, made in Final Order No.505-506/2011, dated 6.4.2011, at this stage. It is for the tribunal to consider the application filed by the petitioner, in Application No. E/ROM/28.11, and pass appropriate orders thereon, on merits and in accordance with law. Hence, this Writ Petition stands dismissed. No costs. However, as there is no regular sitting of the bench, it would be open to the petitioner to make an appropriate application to the Assistant Registrar of the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, for early hearing of his application, made in No. E/ROM/28.11. On such application being made, the Assistant Registrar, Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, is expected to consider the same and pass appropriate orders thereon, for an early hearing of the application No. E/ROM/28.11, made by the petitioner. Consequently, connected Miscellaneous Petition is closed.