

ITEM NO.3 Court 7 (Video Conferencing) SECTION XIV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).551-553/2021

(Arising out of impugned final judgment and order dated 04-03-2019 in WPC No.20/2018 05-03-2020 in IA No.02/2019 05-03-2020 in IA No. 04/2019 passed by the High Court Of Sikkim At Gangtok)

M/S SIKKIM ORGANICS Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

IA No. 59542/2021 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 59541/2021 - STAY APPLICATION)

Date : 01-06-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Mayank Jain,Adv.  
Mr. Parmatma Singh, AOR  
Mr. Madhur Jain,Adv.

For Respondent(s) Mr. Balbir singh, Ld. ASG  
Mr. Anmol chandan Adv  
Mr. Mukul Singh, Adv  
Mr. Akshay Amritanshu,Adv  
Mr. B. V. Balaram Das, AOR  
Mr. Mukesh Kumar Maroria, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The petitioner is a unit which manufactures industrial chemicals. A demand notice was issued on 08.04.2016 proposing classification of industrial chemical 'Sikko Sol' under sub-head No. 2710 1213 of the Central Excise Tariff Act,1985 having Central Excise duty @ 16%

Adv + Rs. 15/- per litre prior to 17.3.2012 and thereafter @14% Adv. An amount of Rs.33,77,95,151/- was levied on the petitioner for the period from 01.04.2011 to 31.12.2015. The demand was confirmed by the Adjudication Order dated 06.02.2017. The petitioner filed an appeal before CESTAT which was dismissed for non-compliance of deposit of 7.5% of the demanded amount under Section 35(f) of the erstwhile Central Excise Act, 1944. The petitioner challenged the order of CESTAT before the High Court. The writ petition filed by the petitioner was dismissed on 04.03.2019 against which this special leave petition is filed.

A notice was issued under Section 174(2)(e) of the Central Goods & Service Tax Act, 2017 on 02.02.2021, for initiation of process of recovery. On 22.02.2021, the raw material/finished goods, movable and immovable properties were attached. Plant and machinery was also attached. Learned counsel for the petitioner submitted that the amount of Rs.2.53 crores was deposited by 28.10.2020. He further submitted that the delay in depositing the amount may be condoned and the appeal filed before the CESTAT may be directed to be heard on merits.

Mr. Balbir Singh, learned Additional Solicitor General conended that demand is to the tune of Rs.100 crores. The deposit of the amount which is a pre-condition for entertaining the appeal by CESTAT was done

only after the writ petition filed by the petitioner was dismissed by the High Court. The learned ASG submitted that the appeal before the CESTAT may be restored subject to imposition of certain terms.

Having regard to the facts and circumstances of this case, we deem fit and proper in the interests of justice to restore the appeal before the CESTAT which shall be decided on its own merits.

The petitioner shall give an undertaking that it shall neither alienate movable or immovable property nor create third party rights. We are informed by the learned counsel for the petitioner that the bank accounts of the Unit are frozen. The respondents are directed to de-freeze the bank accounts and the petitioner shall undertake to utilize it only for the purpose of his business.

The Special leave petitions stand disposed of. Pending application(s), if any, shall stand disposed of.

(B. PARVATHI)  
COURT MASTER

(ANAND PRAKASH)  
COURT MASTER