



W.P.(MD) Nos.9446 to 9452 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.9446 to 9452 of 2024

and

W.M.P.(MD) Nos.8568, 8570, 8588, 8593, 8579, 8581 & 8587 of of 2024

WP(MD).No.9446 of 2024:

M/s.Veeram Natural Products,
Represented by its Partner
V.A.Kodiswaran,
No.4, Chairman A.Shanmugam Road,
Sivakasi - 626 123.
Virudhunagar District.

... Petitioner

Vs.

- 1.The Commissioner of GST &
Central Excise,
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.
- 2.The Additional Commissioner of GST &
Central Excise (Appeals),
Coimbatore Circuit Office at
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.



W.P.(MD) Nos.9446 to 9452 of 2024

WEB COPY

3.The Assistant Commissioner of
CGST & Central Excise, Sivakasi Division,
No.1/749, Tiruthangal to Pallapatti Road,
Thiruthangal - 626 130, Virudhunagar District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order-in-Appeal No.MAD-CGST-ADC-APP-18/2023 dated 04.07.2023, one among the common orders bearing Orders in Appeal No.MAD-CGST-ADC-APP-18 to 24/2023, passed by the 2nd respondent and quash the same.

For Petitioner : Mr.S.Jai Kumar

For respondents : Mr.N.Dilip Kumar
Senior Standing Counsel

WP(MD).No.9447 of 2024:

M/s.Veeram Natural Products,
Represented by its Partner
Shri V.A.Kodiswaran,
No.4, Chairman A.Shanmugam Road,
Sivakasi - 626 123.
Virudhunagar District.

... Petitioner

Vs.

- 1.The Commissioner of GST &
Central Excise,
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.
- 2.The Additional Commissioner of GST &
Central Excise (Appeals),
Coimbatore Circuit Office at
Central Revenue Building,



W.P.(MD) Nos.9446 to 9452 of 2024

WEB COPY No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

3.The Assistant Commissioner of
CGST & Central Excise, Sivakasi Division,
No.1/749, Tiruthangal to Pallapatti Road,
Thiruthangal - 626 130, Virudhunagar District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order-in-Appeal No.MAD-CGST-ADC-APP-19/2023 dated 04.07.2023, one among the common orders bearing Orders in Appeal No.MAD-CGST-ADC-APP-18 to 24/2023, passed by the 2nd respondent and quash the same.

For Petitioner : Mr.S.Jai Kumar

For respondents : Mr.N.Dilip Kumar
Senior Standing Counsel

WP(MD).No.9448 of 2024:

M/s.Veeram Natural Products,
Represented by its Partner
Shri V.A.Kodiswaran,
No.4, Chairman A.Shanmugam Road,
Sivakasi - 626 123.
Virudhunagar District.

... Petitioner

Vs.

1.The Commissioner of GST &
Central Excise,
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.



W.P.(MD) Nos.9446 to 9452 of 2024

WEB COPY
2.The Additional Commissioner of GST &
Central Excise (Appeals),
Coimbatore Circuit Office at
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

3.The Assistant Commissioner of
CGST & Central Excise, Sivakasi Division,
No.1/749, Tiruthangal to Pallapatti Road,
Thiruthangal - 626 130, Virudhunagar District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order-in-Appeal No.MAD-CGST-ADC-APP-20/2023 dated 04.07.2023, one among the common orders bearing Orders in Appeal No.MAD-CGST-ADC-APP-18 to 24/2023, passed by the 2nd respondent and quash the same.

For Petitioner : Mr.S.Jai Kumar

For respondents : Mr.N.Dilip Kumar
Senior Standing Counsel

WP(MD).No.9449 of 2024:

M/s.Veeram Natural Products,
Represented by its Partner
Shri V.A.Kodiswaran,
No.4, Chairman A.Shanmugam Road,
Sivakasi - 626 123.
Virudhunagar District.

... Petitioner

Vs.

1.The Commissioner of GST &
Central Excise,



W.P.(MD) Nos.9446 to 9452 of 2024

WEB COPY
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

2.The Additional Commissioner of GST &
Central Excise (Appeals),
Coimbatore Circuit Office at
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

3.The Assistant Commissioner of
CGST & Central Excise, Sivakasi Division,
No.1/749, Tiruthangal to Pallapatti Road,
Thiruthangal - 626 130, Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order-in-Appeal No.MAD-CGST-ADC-APP-21/2023 dated 04.07.2023, one among the common orders bearing Orders in Appeal No.MAD-CGST-ADC-APP-18 to 24/2023, passed by the 2nd respondent and quash the same.

For Petitioner : Mr.S.Jai Kumar

For respondents : Mr.N.Dilip Kumar
Senior Standing Counsel

WP(MD).No.9450 of 2024:

M/s.Veeram Natural Products,
Represented by its Partner
Shri V.A.Kodiswaran,
No.4, Chairman A.Shanmugam Road,
Sivakasi - 626 123.

5/14



W.P.(MD) Nos.9446 to 9452 of 2024

Virudhunagar District.

... Petitioner

Vs.

1.The Commissioner of GST &
Central Excise,
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

2.The Additional Commissioner of GST &
Central Excise (Appeals),
Coimbatore Circuit Office at
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

3.The Assistant Commissioner of
CGST & Central Excise, Sivakasi Division,
No.1/749, Tiruthangal to Pallapatti Road,
Thiruthangal - 626 130, Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order-in-Appeal No.MAD-CGST-ADC-APP-22/2023 dated 04.07.2023, one among the common orders bearing Orders in Appeal No.MAD-CGST-ADC-APP-18 to 24/2023, passed by the 2nd respondent and quash the same.

For Petitioner : Mr.S.Jai Kumar

For respondents : Mr.N.Dilip Kumar

Senior Standing Counsel

WP(MD).No.9451 of 2024:

M/s.Veeram Natural Products,

6/14



W.P.(MD) Nos.9446 to 9452 of 2024

WEB COPY

Represented by its Partner
Shri V.A.Kodiswaran,
No.4, Chairman A.Shanmugam Road,
Sivakasi - 626 123.
Virudhunagar District.

... Petitioner

Vs.

1.The Commissioner of GST &
Central Excise,
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

2.The Additional Commissioner of GST &
Central Excise (Appeals),
Coimbatore Circuit Office at
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

3.The Assistant Commissioner of
CGST & Central Excise, Sivakasi Division,
No.1/749, Tiruthangal to Pallapatti Road,
Thiruthangal - 626 130, Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order-in-Appeal No.MAD-CGST-ADC-APP-23/2023 dated 04.07.2023, one among the common orders bearing Orders in Appeal No.MAD-CGST-ADC-APP-18 to 24/2023, passed by the 2nd respondent and quash the same.

For Petitioner : Mr.S.Jai Kumar

For respondents : Mr.N.Dilip Kumar
Senior Standing Counsel



W.P.(MD) Nos.9446 to 9452 of 2024

WEB COPY **WP(MD).No.9452 of 2024:**

M/s.Veeram Natural Products,
Represented by its Partner
Shri V.A.Kodiswaran,
No.4, Chairman A.Shanmugam Road,
Sivakasi - 626 123.
Virudhunagar District.

... Petitioner

Vs.

1.The Commissioner of GST &
Central Excise,
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

2.The Additional Commissioner of GST &
Central Excise (Appeals),
Coimbatore Circuit Office at
Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai - 625 002.

3.The Assistant Commissioner of
CGST & Central Excise, Sivakasi Division,
No.1/749, Tiruthangal to Pallapatti Road,
Thiruthangal - 626 130, Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order-in-Appeal No.MAD-CGST-ADC-APP-24/2023 dated 04.07.2023, one among the common orders bearing Orders in Appeal No.MAD-CGST-ADC-APP-18 to 24/2023, passed by the 2nd respondent and quash the same.

For Petitioner : Mr.S.Jai Kumar



W.P.(MD) Nos.9446 to 9452 of 2024

WEB COPY

For respondents : Mr.N.Dilip Kumar
Senior Standing Counsel
* * * * *

COMMON ORDER

By this common order, all these Writ Petitions have been disposed of.

2. In these Writ Petitions, the petitioner has challenged the impugned common Order-in-Appeal No.MAD-CGST-ADC-APP-18 to 24/2023 dated 04.07.2023.

3. By the impugned order, the second respondent had rejected the appeals in A.Nos.97-103/2022-GST (MDU) filed by the petitioner against the Order-in-Original No.1-07/AC/GST/2022 in DRC 07, dated 21.06.2022.

4. The dispute between the petitioner and respondents on the account of clarification of Aluminium foil container.

5. The case of the petitioner is that the products of the petitioner are classifiable under the heading 7615 of Customs Tariff Act, 1975, wherein, a



W.P.(MD) Nos.9446 to 9452 of 2024

contention of the Department so that the some products are liable to be classified under the heading of 7607, which attracts 18% of GST.

6. The specific case of the petitioner is that the item, in question, was to be treated as 'Table, kitchen or other household articles of aluminium', whereas, as per the Department, the product, in question, would be classifiable as 7607 (Aluminium foil container).

7. In these Writ Petitions, the petitioner has challenged the impugned orders, that have been passed for the assessment period from June 2018 to June 2021.

8. Earlier, the petitioner had suffered similar orders in the hands of the second respondent herein *vide* order No.13/2020, dated 28.10.2020, in respect of which, the second respondent had passed a Common Order No.13-19/2020 on 28.10.2020. The petitioner filed W.P.(MD)Nos.6485 to 6492 of 2023 against the said Order dated 28.10.2020. The Court disposed of these Writ Petitions filed by the petitioner in W.P.(MD)Nos.6485 to 6492 of 2023, *vide* Order dated



W.P.(MD) Nos.9446 to 9452 of 2024

13.09.2023, following order of the Hon'ble Supreme Court in ***Commissioner of Central Excise vs. Hindalco Industries Limited in Civil Appeal No.7561 of 2009, dated 08.02.2022 reported in 2023 centax 132 (S.C.)***. The Writ Petition was allowed with the following observation:

“ 8. And the issue raised by the petitioner is settled by the Hon-ble Supreme Court in favour of the petitioner and against revenue. Therefore, this Court is of the considered opinion that the product Aluminium Foil Container is classifiable under 7615 with GST 12%. Hence the impugned order is liable to be quashed and accordingly quashed.

9. However, the petitioner has already paid tax for the month of July 2017 to November 2017 at 18%, which is accumulated credit available to the petitioner. However, this Court is not inclined to decide the refund issue, since it has to be considered on various factors. The refund is left open between the parties and the same shall be adjudicated as per Provisions of Law.

10. With these observations and directions, these writ petitions are allowed. No Costs. Consequently, connected miscellaneous petitions are closed.”

9. It appears that for the subsequent period also, the Original Authority viz., Assistant Commissioner of Central GST and Central Excise, Sivakasi Division, vide Order-in-Original No.22/AC/GST/2024, dated 28.05.2024 has dropped the demand proposed in Statement of Demand No.08/AC/GST/2023-24,

11/14



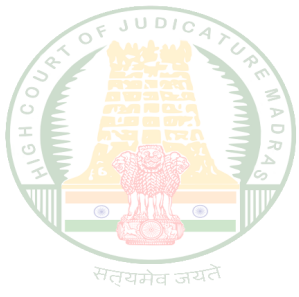
W.P.(MD) Nos.9446 to 9452 of 2024

dated 14.09.2023. While dropping the demand in the aforesaid proceedings for the period commenced from July 2022- December 2022. The Assistant Commissioner of Central GST and Central Excise, Sivakasi took note of the decision of this Court rendered in the petitioner's case in W.P.(MD)Nos.6485 to 6492 of 2023 vide order dated 13.09.2023 and letter of the Legal Section, Headquarters, Madurai and has observed as under:

“9. From the above, I find that the issue raised by the taxpayer is settled by the Hon’ble High Court, Madurai vide their W.P.Nos.6485 to 6492 of 2023 dated 13.09.2023, based on the Hon’ble Supreme Court in the case of Commissioner of Central Excise vs. Hindalco Industries Limited vide judgement dated 08.02.2023 in Civil Appeal No.7561 of 2009 reported in 2023 Centax 132(SC), has held that the said product is classifiable under 7615. Hence, I concluded that the product Aluminium Foil Container is classifiable under 7615 with GST 12%.

10. Further, this office has sent a letter to the Legal Section, Hqrs., Madurai to know the present status of the Hon’ble High Court of Madurai W.P.Nos.6485 to 6492 of 2023 dated 13.09.2023, vide this office letter even no. dated 01.03.2024. The Legal Section, Hqrs., Madurai informed that the Hon’ble High Court of Madurai W.P.Nos.6485 to 6492 of 2023 dated 13.09.2023, is accepted by the Commissioner of CGST and Central Excise, Madurai vide their letter GEXCOM/LGL/HC/GST/34/2023-Legal dated 13.05.2024.”

10. Thus, these Writ Petitions have to be allowed as the order of this Court



W.P.(MD) Nos.9446 to 9452 of 2024

WEB COPY dated 13.09.2023 in W.P.(MD)No.6485 to 6492 of 2023 has been accepted by the Commissioner GST Central Excise, Madurai, vide letter GEXCOM/LGL/HC/GST/34/2023-Legal dated 13.05.2023. Consequently, the amount, that was pre-deposited by the petitioner, was directed to be refunded in accordance with law within 30 days from the date of receipt of a copy of this order.

These Writ Petitions stand allowed, with above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

03.07.2024



WEB COPY



W.P.(MD) Nos.9446 to 9452 of 2024

C.SARAVANAN, J.

apd

W.P.(MD) Nos.9446 to 9452 of 2024

03.07.2024