

High Court of Sikkim

Record of proceedings

WP(C) No.15 of 2019

M/s. Sikkim Organics and Another

Petitioners

VERSUS

Union of India and Another

Respondents

Date : 09-05-2019

**CORAM : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE
THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE**

For Appellant Mr. Pradip Kumar Das, Advocate.
Ms. Rachhita Rai, Advocate.

For Respondents None.

ORDER

Rai, J.

The Petitioner-Company is aggrieved by the impugned Order dated 30-11-2018 passed by the Commissioner of CGST & CX, Siliguri Commissionerate, alleging mis-classification of the finished goods, i.e., Sikko Sol, and requiring the Petitioners to pay Central Excise duty of Rs.39,96,769/- (Rupees thirty nine lakhs, ninety-six thousand, seven hundred and sixty-nine) only, short-paid by the Petitioner during the period January, 2016 to December, 2016, under Section 11A(10) of the Central Excise Act, 1944. That, the impugned Order is unreasonable, illegal, arbitrary and also in violation of the principles of natural justice.

We have examined the Writ Petition and the prayers made therein and considered the submissions of Learned Counsel for the Petitioners.

Section 35 of the Central Excise Act, 1944, provides for an Appellate Forum. The Petitioner by invoking the provisions of Article 226 of the Constitution of India cannot circumvent the

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statutory provision and urge his Petition before this Court before appearing in the Appellate Forum. The mandate of the Statute is to be complied with in the first instance, thereafter the Petitioners are free to invoke the jurisdiction of this Court, if so advised.

The Writ Petition is dismissed and disposed of accordingly.

Judge

09-05-2019

Judge

09-05-2019

Index : ~~Yes~~/No

Internet : Yes/~~No~~

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