

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

W.A. No.1244 of 2015 and M.P. No.1 of 2015

- 1 State of Tamil Nadu
represented by its Secretary
Department of Prohibition and Excise
Secretariat
Chennai 600 009
 - 2 The Taluk Excise Officer
Fort - Tondiarpet Taluk
Chennai 600 003
 - 3 The Collector
Chennai District
62, Rajaji Salai
Chennai 600 017
- vs.
- Imcola Exports Ltd.
"Neeladri", III Floor
No.9, Cenotaph Road
Alwarpet, Chennai 600 018
- Appellants/Respondents

Respondent/petitioner

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 22.10.2013 passed in M.P. No.2 of 2013 in W.P. No.94 of 2013.

petition praying that in the circumstances stated therein and in the affidavit final therewith the High Court will be pleased to modify the interim order dated 3.1.2013 in mp.No.1 of 2013 in wp.No.94/2013 so as to relieve the petitioner from the need to furnish security/ bank guarantee for every demand made by the appropriate authority (in m.p.No.2/13) pending disposal of the Wp. No.94/2013:

Petition Uner/Article 226 of the constitution of India praying this court pleased to issue a writ of prohibition restraining the respondents from remanding the administrative service see from the petitioner under the Tamil Nadu Molasses Control and Regulation Rules 1958 in respect of transactions involving purchase of molasses from

outside Tamilnadu and exported outside India.

For appellants Mrs. A. Srijayanthi
Special Government Pleader

For respondent Mr. P.S. Raman, Senior Counsel
for Mr. V.P. Raman

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

This intra-Court appeal is directed against the order dated 22.10.2013 rendered in M.P. No.2 of 2013 in W.P. No.94 of 2013.

2 For the sake of convenience, the parties are referred to as per their rank in the instant appeal.

3.1 The facts in nutshell, leading to the filing of the instant intra-Court appeal are that the respondent, a dealer in transport of molasses, preferred the instant writ petition being W.P. No.94 of 2013, seeking a writ of prohibition restraining the appellants from demanding administrative service fee from respondent under the Tamil Nadu Molasses Control and Regulation Rules, 1958, in respect of transactions involving purchase of molasses from outside Tamil Nadu and exported outside India through the Chennai Port Trust.

3.2 By way of a Miscellaneous Petition being M.P. No.1 of 2013, the respondent sought interim injunction restraining the appellants from demanding the said administrative service fee.

3.3 The learned Single Judge, considering the matter, vide order dated 03 January 2013, granted an order of interim injunction to the following extent:

"In view of the above, there will be an order of interim injunction, subject to the condition that on each and every consignment originating from any State outside Tamil Nadu for export, if there is any demand, the petitioner shall give appropriate security either in the form of bank guarantee or otherwise, as may be specified by the authority, till the disposal of the writ petition. Notice."

3.4 Subsequently, on 22 October 2013, in M.P. No.2 of 2013 filed

by the respondent to modify the aforesaid interim order, the learned Single Judge modified the aforesaid order to the following extent:

"5. In view of the above decision, this Miscellaneous Petition is ordered. The petitioner is allowed to furnish personal bonds instead of bank guarantee in future. This Miscellaneous Petition is ordered accordingly. Post the writ petition in the usual course."

3.5 In the same proceedings, M.P. No.3 of 2013 filed by the State/appellants herein, seeking to vacate the interim order dated 03 January 2013, was dismissed.

4 Now, the limited question which arises for consideration in this intra-Court appeal preferred by the State challenging the order dated 22 October 2013 rendered in M.P. No.2 of 2013 is, whether, by way of interim order, the collection of administrative service fee be deferred on furnishing of personal bonds instead of bank guarantee indefinitely.

5 The question on the competence of the State to collect administrative service fee under the aforesaid provisions of law is still pending consideration in the main writ petition. Grant of interim relief of this nature may prejudice the adjudication, pending writ petition. However, in the facts of the case, we are not inclined to interfere with the interim orders impugned herein, clarifying that the said interim orders shall not govern the future transactions. In the event, the respondent feels aggrieved in future, it is at liberty to make appropriate application for appropriate orders in the pending writ petition. The Registry is directed to expedite posting of the writ petition for final disposal.

6 The instant intra-Court appeal stands disposed of accordingly. No costs. Connected Miscellaneous Petition is closed.

To

- 1 The Secretary to Government,
Department of Prohibition and Excise
State of Tamil Nadu
Secretariat
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- 2 The Taluk Excise Officer
Fort - Tondiarpet Taluk
Chennai 600 003

3 The Collector
Chennai District
62, Rajaji Salai
Chennai 600 017

+1cc to Mr.V.P.Raman, Advocate SR.50731
+1cc to The Government Pleader Sr.50793

W.A. No.1244 of 2015

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srg 29.09.2015



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