

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.18013 of 2015
and M.P.Nos.1 and 2 of 2015

1.M/s.Pavai Alloys & Steels Private Limited,
S.F.No.433/4A,B,C,D,
Nallur Kandampalayam,
Paramathivelur Taluk,
Namakkal District.

2.V.Kuppusamy
3.K.Bhaskaran

... Petitioners/Accused.

Vs

The Deputy Commissioner of Central Excise,
Salem II Division,
No.21, Theerthamalai Arcade,
New Bus Stand West,
Salem-636 004.

... Respondent/Complainant.

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the complaint filed by the respondent in CC.No.22 of 2014 pending on the file of the learned Chief Judicial Magistrate, Namakkal and to quash the same.

For Petitioner :Mr.S.Senthil Nathan

For Respondent :Mr.C.Emalias

Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in CC.No.22 of 2014 pending on the file of the learned Chief Judicial Magistrate, Namakkal.

2.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent and perused the materials placed on record.

3.It is the case of the prosecution that there is evasion of excise duty by the petitioners, for which the present prosecution as against the petitioners has been launched by the Department under Sections 9 and 9AA of the Central Excise Act, 1944.

4.The learned counsel for the petitioners submitted that after the culmination of the adjudication proceedings, the matter is pending before the Central Excise Appellate Tribunal and hence, prosecution is not maintainable. I am not able to concur with this argument. Since the ingredient of the offence of duty evasion is different from the scope of enquiry in adjudication proceedings, the prosecution can proceed simultaneously with the adjudication proceedings. Hence, there is no merit in this contention and accordingly, this Criminal Original Petition is dismissed with liberty to raise all the points before the trial Court. Consequently, connected Miscellaneous Petitions are closed.

mps

s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

- 1.The Chief Judicial Magistrate,
Namakkal.
- 2.The Deputy Commissioner of Central Excise,
Salem II Division,
No.21, Theerthamalai Arcade,
New Bus Stand West,
Salem-636 004.
- 3.The Public Prosecutor,
High Court, Chennai.

rsi(co)
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सत्यमेव जयते

Cr1.OP.No.18013 of 2015
and M.P.Nos.1&2 of 2015

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