

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2016

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.No.1137 of 2016

and

WMP No.871 of 2016

M/s Premier Optical Pvt Ltd
rep by its Director,
No.80, G N Chetty Road,
T. Nagar,
Chennai - 600 017

..... Petitioner

vs

1. Commissioner of Central Excise
Chennai II Central Excise Commissionerate,
New No.692, MHU Complex,
Anna Salai,
Chennai 2

2. The Assistant Commissioner (Prevention Cell),
Chennai II Central Excise Commissionerate,
New No.692 MHU Complex,
Anna Salai,
Chennai

3. The Superintendent of Central Excise,
Chennai - II Commissionerate,
New No.692 MHU Complex,
Anna Salai,
Chennai

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent culminating in his Order C.No.IV/16/05/2015-HPU dated 30.12.2015 quash the same and direct the respondents not to enforce the impugned order issued by the second respondent.

For petitioner : M/s Maithili Associates

For respondents : Mr.A.P. Srinivas
Standing Counsel

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent in his Order C.No.IV/16/05/2015-HPU dated 30.12.2015 and quash the same and direct the respondents not to enforce the impugned order issued by the second respondent.

2. The main contention raised by the petitioner is that even without issuing show cause notice and even without following the due process of law, the second respondent issued the impugned order dated 30.12.2015, demanding the petitioner to pay a sum of Rs.1,37,71,998/- with interest within ten days, failing which, threatened to take action for recovery of the said amount.

3. On a perusal of the materials, available on record, it is clear that the impugned order was passed by the second respondent, without issuing any show cause notice and without giving an opportunity of hearing of the petitioner.

4. Mr.A.P. Srinivas, learned Standing Counsel, appearing for the respondent, submitted that since no notice was issued to the petitioner, prior to passing of the impugned order, the same may be set aside and liberty may be given to the concerned jurisdictional authority for issuing show cause notice.

5. Having regard to the submissions made by the learned counsel on either side, since the impugned order has been passed by the second respondent without any notice or without giving any opportunity of personal hearing to the petitioner, the impugned order dated 30.12.2015 is liable to be set aside and accordingly, the same is set aside and liberty is given to the jurisdictional authority to issue show cause notice. In the event of the authority, issuing show cause notice, the petitioner is at liberty to give appropriate reply to the same and the respondents are at liberty to decide the matter on merits and in accordance with law, after affording due opportunity of personal hearing to the

petitioner. With this observation, the writ petition is disposed of. No costs. Consequently, connected MP is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

sr

To

1. Commissioner of Central Excise
Chennai II Central Excise Commissionerate,
New No.692, MHU Complex,
Anna Salai,
Chennai
2. The Assistant Commissioner (Prevention Cell),
Chennai II Central Excise Commissionerate,
New No.692 MHU Complex,
Anna Salai,
Chennai
3. The Superintendent of Central Excise,
Chennai - II Commissionerate,
New No.692 MHU Complex,
Anna Salai,
Chennai

1 cc to M/s. L. Malathi Associates, Advocate, Sr. 16395
1 cc to Mr.A.P. Srinivas, Standing Counsel, Sr. 16534

W.P.No.1137 of 2016

WEB COPY

KGK (CO)
kk 23/3