

WMP No.31907 of 2016
W.P.No.32875 of 2016

T.S.SIVAGNANAM, J.

Heard Mr.K.Jayachandran, learned counsel for the petitioner and Mr.S.R.Sundar, learned Senior Panel Counsel for the respondent.

2.This Petition has been filed for modification of the order and direction issued in W.P.No.32875 of 2016 dated 20.09.2016, more particularly the direction contained in paragraph No.5, which reads as follows:

"5.Accordingly, the petitioner is directed to pay a sum of Rs.5,00,000/- [Rupees five lakhs only] towards the disputed service tax liability within a period of two weeks from the date of receipt of a copy of this order and if the same is done, then the petitioner is entitled to treat the impugned proceedings as a show cause notice, submit their reply along with the documents within a period of two weeks thereafter and at the time of receiving the reply, the respondent shall fix the date for personal hearing and give a written intimation under due acknowledgment to the petitioner and without further notice, the petitioner should appear before the respondent on the said date and put forth his case. Thereafter, the respondent shall re-do the adjudication in accordance with law."

3.The learned counsel for the petitioner would submit that the petitioner served the Border Security Force for 24 years, mostly in the Northern Border of India and after retirement in 2002, with the assistance of another retired Security Officer, started a Firm in 2007, to provide security personnel to various companies and obtained Service Tax Registration during the end of 2007. The petitioner would state that he is ready and willing to avail the remedy granted by this Court, but the only difficulty expressed by him is that due to financial crunch, he is unable to comply with the conditional order passed by this Court i.e. to remit a sum of Rupees five lakhs. The petitioner would further submitted that he is the solely depending on the pension amount of Rs.11,800/- to run his family and he has paid Rupees one lakh being partial compliance of the order passed by this Court, by borrowing a loan from one Mr.Kannan, who has directly deposited the said amount in the State Bank of India and produced the challan for payment.

4.The learned Senior Counsel appearing for the respondent would vehemently oppose the prayer sought and 7.5% of the pre-deposit itself would come to almost Rupees three lakhs.

5.However, considering the peculiar facts and circumstances of the case, this Court is inclined to exercise its discretion in the matter and accordingly, the order and direction issued in the order dated

20.09.2016, wherein the condition imposed on the petitioner to pay a sum of Rupees five lakhs, is modified and the petitioner is directed to pay a sum of Rupees two lakhs. Out of which the petitioner has already paid Rupees one lakh and the remaining one lakh shall be paid by the petitioner, within a period of eight weeks from the date of receipt of a copy of this order and the petitioner is entitled to the benefits of the other directions contained in paragraph NO.5 of the order.

The Writ Miscellaneous Petition is disposed of accordingly.

Rpa

25.10.2016

T.S.SIVAGNANAM, J.

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