



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2016

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.24488 of 2016

and

W.M.P. (MD) No.17675 of 2016

The Commissioner,
Karur Municipality,
Karur.

... Petitioner

Vs.

1.The Commissioner,
O/o. The Commissioner of Custom and
Central Excise (Appeals),
No.1, Williams Road,
Cantonment, Tiruchirapalli.

2.The Assistant Commissioner,
O/o.The Assistant Commissioner of Central Excise,
No.15, Gowripuram Extension,
Anna Nagar Main Road,
Karur.

... Respondents

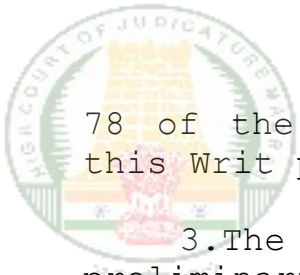
PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in pursuant to the order passed by the 1st respondent vide proceedings A.No.42/2009 - TRY (ST) dated 27.04.2010 and quash the same as illegal and ultravires.

For Petitioner : Mr.K.Balasubramani
For Respondents : MrR.Nandakumar.

O R D E R

The petitioner seeks for a Writ of certiorari, to quash the proceedings of the 1st respondent in A.No.42/2009 - TRY (ST) dated 27.04.2010.

2.The petitioner / Municipality has been imposed with the penalty under Sections 75, 76, 77 and 78 of the Finance Act, 1994. Aggrieved over the same, the petitioner has approached the 1st respondent by way of an appeal. The 1st respondent while passing an order of granting waiver under Section 76 of the Finance Act, has not interfered with the penalty amount imposed under Section



78 of the Act. As against which, the petitioner has preferred this Writ petition.

3.The learned counsel appearing for the respondents has raised preliminary objection that the petitioner has got alternative remedy before the Tribunal and without exhausting the same, the petitioner cannot invoke Article 226 of the Constitution of India. He further submitted that the order passed is of the year 2010 and after a lapse of 6 years, the petitioner has approached this Court as against the order dated 27.04.2010.

4.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5.Even though it has been contended by the learned counsel for the respondents that the petitioner has to approach the Tribunal within a time limit, subsequently, he clarified that the Tribunal has got powers to condone the delay, if satisfactory reasons are given by the petitioner.

6.As the petitioner has got an effective alternative remedy, this Writ petition is dismissed only on the ground of jurisdiction. It is open to the petitioner to approach the Tribunal, if he is so advised and if any application is filed, the Tribunal shall consider the same and pass appropriate orders on merits and in accordance with law. No costs. Consequently, connected W.M.P.is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner,

O/o. The Commissioner of Custom and Central Excise (Appeals),
No.1, Williams Road, Cantonment, Tiruchirapalli.

2.The Assistant Commissioner,

O/o.The Assistant Commissioner of Central Excise,
No.15, Gowripuram Extension,
Anna Nagar Main Road, Karur.

+1 cc to M/s.R.Nandakumar, Advocate in SR.No.82352

+1 cc to M/s.K.Balasubramani, Advocate in SR.No.82334

nbj

<https://hcs.csls.mca.gov.in/12services/> **CSL/PM-AMT/24.01.2017 :2P/5C**

W.P. (MD) No.24488 of 2016
21.12.2016