IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.10573 of 2017
and
W.M.P.No.11499 of 2017

M/s.Empee Distilleries Ltd.,
Rep. by its Chairman
M.P.Purushothaman
EMPEE Tower, No.59, Harris Road,
Pudupet, Chennai-600 002. ... Petitioner

Vs.

1. The Commissioner of Commercial Taxes
   Government of Tamil Nadu
   Chepauk, Chennai-600 005.

2. The Joint Commissioner
   Commercial Taxes CT
   Large Tax Payers Unit, Chennai-600 008.

3. The Deputy Commissioner
   (Commercial Taxes CT-1)
   Large Tax Payers Unit, Chennai-600 008.

4. The Tamil Nadu State Marketing Corporation Ltd
   Represented by its Managing Director
   (TASMAC) 4th Floor, CMDA Tower-II,
   Gnadhi Irwin Bridge Road,
   Egmore, Chennai-600 008.

5. The Branch Manager
   State Bank of India
   Egmore High Road Branch
   Chennai-600 008.

6. The Branch Manager
   Andhra Bank,
   Mount Road Branch, Chennai-600 002. ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent by his proceedings pertains to the Notice in 'Form U' in TIN No.33980640189/2017-18 dated 19.04.2017 for the month of March 2017 and quash the same and direct the respondents 1 - 3 to grant 10 months time to the petitioner to pay the present VAT arrears and interest for the total sum of Rs.32,63,17,472.00/- (Rupes Thirty Two Crores Sixty Three Lakhs Seventeen Thousand Four Hundred and Seventy Two Only).

For Petitioner : Mr.C.A.Diwakar
for Mr.P.Bakiyaraj

For Respondents : Mr.S.Kanmani Annamalai
Additional Government pleader (Tax)
for R1 to R3
Mr.B.Nedunchezhiyan
Standing Counsel, for R4

O R D E R

The petitioner is aggrieved against the notice for recovery dated 19.04.2017 and consequently seeking for a direction to the respondents 1 to 3 to grant ten months time to make the payment of arrears with interest.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader (Tax) appearing for the respondents 1 to 3. Mr.B.Nedunchezhiyan, learned Standing Counsel takes notice for the fourth respondent. Since the respondents 5 and 6 are garnishees, this writ petition is being disposed of, after hearing the contesting parties and thus notice to those respondents 5 and 6 are dispensed with.

3. The present impugned proceedings are issued for recovery of sum of Rs.32,63,17,472.00/- (Rupes Thirty Two Crores Sixty Three Lakhs Seventeen Thousand Four Hundred and Seventy Two Only) towards arrears. The petitioner is not disputing the liability and on the other hand, they seek indulgence of this Court to effect the payment of such arrears in installments. In support of such prayer, the petitioner sought to rely on an earlier order passed by this Court in WP.No.30496 of 2015 dated 06.10.2015, wherein, this Court permitted the petitioner to pay the entire arrears involved therein along with interest in 20 equated weekly installments.

4. When this writ petition was posted for admission on 26.04.2017, the learned counsel for the petitioner submitted that out of the total demand of Rs.32,63,17,472.00/-, the petitioner has paid a sum of Rs. 2.97 crores on 24.04.2017 &

25.04.2017, and to show the bonafide of the petitioner, they would pay a further sum of Rs.7.5 crores by 27.04.2017. Recording the above said submission, this Court adjourned the matter for hearing it today. Accordingly, the matter is listed today for further hearing. The learned counsel for the petitioner submitted that the petitioner has paid a sum of Rs.7,50,53,637.70 by way of five cheques dated 27.04.2017.

5. The learned Additional Government Pleader (Tax), based on instructions, submitted that the petitioner has paid so far a sum of Rs.10,48,49,403.20 as against the total demand of Rs.32,63,17,472.00/-. Thus, he submitted that the balance sum of Rs.22,14,68,069/- is still due with interest.

6. The learned counsel for the petitioner submits that the balance amount would be paid, if sufficient time is given for the petitioner to make it in installments.

7. Upon considering the facts and circumstances of the case as well as the submission made by both sides, it is seen that the petitioner has not disputed their liability to pay the arrears of tax. On the other hand, they seek only time to make such payment. It is further seen that the petitioner has also effected a part payment of Rs.10,48,49,403.20, out of the total demand as on today. The said payment is not disputed, but at the same time, this Court is of the view that the petitioner cannot seek indulgence of this Court every time to make the payment in installments by stating one reason or other. Once the tax liability is fixed and also admitted by the petitioner, it is their bounden duty to pay without dragging the matter. As I have already pointed supra, this Court also granted one indulgence in the year 2015. Therefore, this writ petition is disposed of, with a direction to the petitioner, to pay the balance of arrears with interest in four monthly installments commencing from 15.05.2017. It is made clear that no further indulgence shall be shown by this Court, in respect of any future arrears, as it is the bounden duty of the petitioner to effect the payment of tax then and there. No costs. Consequently connected miscellaneous petition is closed.



-s/d-
Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

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To

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   Gnadhi Irwin Bridge Road,
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+2 cc to M/s.P.Bakiyaraj Advocate sr 26211

W.P.No.10573 of 2017

gml(co)
aa28/04/2017