

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Eighth day of May Two Thousand Seventeen

PRESENT

THE HON`BLE MR. JUSTICE K. RAVICHANDRABAABU

WMP No.13011 of 2017

IN WP.10573 OF 2017

1 M/S.EMPEE DISTILLERIES LTD., [PETITIONER]
REP.BY ITS CHAIRMAN, M.P.PURUSHOTHAMAN ,
EMPEE TOWER, NO.59, HARRIS ROAD, PUDUPET,
CHENNAI - 600 002.

Vs

1 THE COMMISSIONER OF COMMERCIAL [RESPONDENT]
TAXES, GOVERNMENT OF TAMILNADU, 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, REP BY ITS MANAGING
DIRECTOR, (TASMAC) 4TH FLOOR, CMDA TOWER -II,
GANDHI IRWIN BRIDGE ROAD, EGMORE, CHENNAI -
600 008.

5 THE BRANCH MANAGER
STATE BANK OF INDIA, EGMORE HIGH ROAD BRACH,
CHENNAI- 600 008.

6 THE BRANCH MANAGER
ANDHRA BANK, MOUNT ROAD BRANCH, CHENNAI -
600 002.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to clarify the effect of final order dated 28.04.2017 in wp.no.10573/2017 in respect of form U order dated 19.04.2017 in TIN No.33980640189 and all the further proceedings arising there from (in WMP No.13011 of 2017)pending of above WP.10573 OF 2017

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.C.A.DIWAKAR Senior Counsel FOR M/S.P.BAKIYARAJ, Advocate for the petitioner and of , M/S.R.S.MANMANI ANNAMALAI Additional Government Pleader, on behalf of the R1 TO R5 the court made the following order:-

This matter is listed before this Court during the Special Sitting today, at the instance of the learned counsel for the petitioner.

2.This miscellaneous petition is filed for clarifying the effect of the final order passed in the above writ petition on 28.04.2017 in respect of 'Form - U' notice dated 19.04.2017.

3.Heard the learned counsel for the petitioner in this miscellaneous petition and Mr.Kanmani Annamalai, learned Additional Government Pleader appearing for respondents 1 to 3.

4.The above writ petition was filed challenging the notice issued in 'Form - U' dated 19.04.2017 and for a direction to respondents 1 to 3 to grant ten (10) months time to make the payment of arrears with interest. The impugned 'Form - U' notice was issued for recovering a sum of Rs.32,63,17,472/- from the TASMAL, which amount is due from such Corporation to the petitioner. This Court, while disposing the writ petition on 28.04.2017, permitted the petitioner to pay the balance of arrears with interest in four (4) monthly instalments commencing from 15.05.2017. Since this Court has not specifically stated anything about the effect of the impugned proceedings in pursuant to the permission granted by this Court to pay the arrears in instalments, this miscellaneous petition is filed by the petitioner seeking for clarification as stated supra.

5.Learned counsel for the petitioner submits that respondents 1 to 3 are not lifting the garnishee order in the absence of any specific direction issued to that effect by this Court. Needless to state that once this Court has permitted the petitioner to pay the arrears in four (4) monthly instalments, it means that the impugned garnishee order cannot have any effect till the petitioner completes the payment in four (4) monthly instalments.

6.Learned counsel for the petitioner submits that since the garnishee order is not lifted, the first instalment to be paid on or before 05.05.2017 cannot be complied with, as only seven (7) days are left with. Therefore, he seeks for extension of time by ten (10) days.

7.Therefore, the order passed by this Court on 28.04.2017 is clarified as follows:

- a) The petitioner shall pay the balance of arrears with interest in four (4) monthly instalments commencing from

25.05.2017;

- b) Respondents 1 to 3 shall keep the impugned garnishee order in abeyance till the petitioner completes the payment of entire arrears in four (4) monthly instalments;
- c) If the petitioner fails to make any one of the instalments, the impugned garnishee order stands restored automatically without reference to this Court; and
- d) On payment of all the four (4) instalments with interest, respondents 1 to 3 shall lift the impugned proceedings.

8. The miscellaneous petition is ordered accordingly.

-sd/-

08/05/2017

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE COMMISSIONER OF COMMERCIAL
TAXES,
GOVERNMENT OF TAMIL NADU,
CHEPAUK,
CHENNAI 05

2 THE JOINT COMMISSIONER,
COMMERCIAL TAXES CT,
LARGE TAX PAYERS UNIT
CHENNAI 08

3 THE DEPUTY COMMISSIONER,
(COMMERCIAL TAXES CT -1)
LARGE TAX PAYERS
UNIT, CHENNAI 08

4 THE MANAGING DIRECTOR
THE TAMIL NADU STATE MARKETING
CORPORATION
LTD, (TASMAC)
4TH FLOOR, CMDA TOWER -
II
GANDHI IRWIN BRIDGE ROAD, EGMORE,
CHENNAI 08.

5 THE BRANCH MANAGER,
STATE BANK OF INDIA,
EGMORE HIGH ROAD
BRANCH, CHENNAI 08

6 THE BRANCH MANAGER,
ANDHRA BANK ,
MOUNT ROAD BRANCH, CHENNAI 02

C.C. to M/S.P.BAKIYARAJ, Advocate SR.NO. 36817

The Government Advocate, High Court, Madras - 104.

Order

in
WMP No.13011 of 2017
IN WP.10573 OF 2017

Date :08/05/2017

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