

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 10.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6563 of 2004

M/s.Sri Krishna Alloys,
rep. By its Partner N.Anbalagan,
262/1B-3, Manjakkalpatty Village,
Akkamapet (P.O.),
Sankari 637 301
Salem District

...Petitioner

versus

The Assistant Commissioner of
Customs & Central Excise,
Erode II Division

...Respondent

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari calling for the records relating to the Appendix II Notice of Demand of Defaulter dated 9.3.2004, issued by the respondent, under Rule 4 of Customs Attachment of Property of Defaulters for recovery of Customs Dues Rules, 1995 for the recovery of duty of Rs.19,25,246.00 and interest of Rs.6,01,000 and quash the same.

For petitioner ... Mr.K.Jayachandran

For respondents ... Mr.A.P.Srinivas,
Senior Central Government
Standing counsel

O R D E R

Heard Thiru.K.Jayachandran, learned counsel for the petitioner and Thiru.A.P.Srinivas, Senior Central Government Standing Counsel, for the respondent.

2. The petitioner has challenged a notice of demand dated 9.3.2004 issued by the respondent under Rule 4 of the Customs (Attachment of Property of Defaulters for Recovery of Customs Dues) Rules, 1995, for recovery of Debt of Rs.19,25,246/- along with interest of Rs.6,01,000/-.

3. The learned counsel for the petitioner submits that the entire debt amount has been paid by remitting a sum of Rs.10,00,000/- pursuant to the interim order passed by this Court and the remaining amount having been adjusted from out of CENVAT credit.

4. Thus, the only issue that survives for consideration is whether the respondent was justified in demanding interest and at what rate. The petitioner would rely upon notification

No.66/2003-C.E.(N.T.) dated 12.09.2003 and submit that the rate of interest cannot be more than 13%.

5. The learned counsel appearing for the Revenue on the other hand pointed out that the rate of interest is fixed at 24% in the light of the recent decisions.

6. Since the Writ Petition is of the year 2004 and the impugned demand is of the year 2004, this Court is inclined to remand the matter back to the respondent for providing an opportunity to the petitioner to place his objections with regard to the rate of interest alone. Accordingly, the Petitioner is directed to submit his objections to the impugned demand towards interest, duly supported by the relevant notification which they seek to rely upon. On submission of the objections, the respondent shall consider the same and pass a speaking order and issue a fresh demand, within a period of three weeks therefrom.

7. The Writ Petition is disposed of with the above direction. No costs. Consequently, W.P.M.P.No.7778 of 2004 is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

tar

To

1.The Assistant Commissioner of
Customs & Central Excise,
Erode II Division

+1 CC to Mr. K. Jayachandran, Advocate sr 48363
+1 CC to Ms. S. Rajasekar, advocate sr 47785.

W.P.No.6563 of 2004

CP(CO)
SP(08/08/2017)