

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32388 of 2004

M/s. Erste Ingenieure(I) P Ltd.,
930/IC Praveen Engineering,
Industries Complex,
Rayakotta Road, Hosur - 635 109.

... Petitioner

Vs.

The Superintendent of Central Excise,
II C Range, Hosur.

... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the files of the respondent relating to the impugned recovery letter No.468/2004 dated 25.10.2004, issued by the respondent and quash the said impugned recovery letter as the same was issued in violation of principles of natural justice.

For Petitioner : Mr.T.Ramesh

For Respondent : Mr.A.P.Srinivas,
Senior Panel Counsel

O R D E R

Heard Mr.T.Ramesh, learned counsel appearing for the petitioner and Mr.A.P.Srinivas, learned Senior Panel Counsel appearing for the respondent. With consent of the learned counsel appearing for both sides, the writ petition is taken up for final disposal.

2.The petitioner has impugned the recovery notice, directing the petitioner to pay interest for the alleged belated payment of tax. The petitioner's case is that, without issuing any show cause notice, the impugned demand has been raised.

3.At the time when the writ petition was entertained, an order of interim stay was granted, subject to the condition that the petitioner pays 50% of the amount demanded. This condition

having been complied with, the interim order granted has been made absolute.

4.Learned counsel for the petitioner submits that the tax amount itself is only Rs.1,54,000/-, whereas, the impugned demand is more than Rs.3,00,000/- and the statutory provisions do not provide for such a demand.

5.In the light of the above, the writ petition is disposed of, by directing the petitioner to submit a detailed objection, to the impugned notice by raising all factual and legal grounds, including the said submission made and the grounds raised by the petitioner in this writ petition, after which, the respondent shall pass a speaking order on merits and in accordance with law. Till the orders are passed, no further action can be taken for recovering the balance amount. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

abr

To

The Superintendent of Central Excise,
II C Range, Hosur.

+1cc to Mr.T.Ramesh, Advocate, S.R.No.61848
+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.61782

W.P.No.32388 of 2004

MP (CO)
CA(22/09/2017)

WEB COPY