

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.44595 of 2006 and M.P.No.2 of 2006

M/s.Prashanth Textiles Limited, Rep. by its
Managing Director, V.Ravichandran,
Rangasamy Nagar, Thondamanuthur Road,
Vedapatty, Coimbatore-641 007. ...Petitioner

Vs.

- 1.The Assistant Commissioner of Central Excise,
6/7, ATD Street, Race Course Road, Coimbatore-18.
- 2.The Superintendent of Central Excise,
Coimbatore I-B Range, Coimbatore.
- 3.The Deputy Commissioner of Central Excise,
Coimbatore I Division, 1237 ELGI Building,
Trichy Road, Coimbatore-641 018.
- 4.The Commissioner of Central Excise,
6/7, ATD Street, Race Course Road,
Coimbatore-18. ...Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records comprised in proceedings in C.No.IV/16/52/2004-TRC dated 03.11.2006 on the file of the fourth respondent issued to the first respondent and quash the same and consequently direct the respondents herein not to take any coercive steps under the Customs (attachment of properties of defaulters of Recovery of Government dues) Rules 1995 pending reference before the Board for Industrial and Financial Reconstruction.

For Petitioner : Mr.T.T.Ravichandran
For Respondents : Mr.Ramasamy, Standing Counsel

O R D E R

Heard Mr.T.T.Ravichandran, learned counsel for the petitioner and Mr.Ramasamy, learned Standing Counsel for respondents 1 to 4.

2.The petitioner has filed this writ petition praying for issuance of writ of Certiorarified Mandamus, to quash the notice issued by the fourth respondent dated 03.11.2006, which is a notice informing the petitioner that Certificate No.2/2006-07 dated 11.07.2006 has been forwarded by the Deputy Commissioner of Central Excise, I Division, to the Commissioner of Central Excise, Coimbatore for the recovery of an amount of Rs.2,98,934/-, and the petitioner was called upon to pay the amount within a period of 7 days from the service of notice, failing which they were informed that steps will be taken to realize the amount in accordance with provisions of the Customs (Attachment of Property of Defaulters for the recovery of Government Dues) Rules 1995.

3.The main ground on which the petitioner has challenged the impugned order is by contending that the petitioner had faced financial difficulties and the matter is pending before the Board for Industrial and Financial Reconstruction (in short "BIFR") for preparing a scheme for revival of the petitioner's company and while so, coercive steps should not be taken against the petitioner and they are entitled for protection under Section 22(1) of the Sick Industrial Companies Act, 1985.

4.This writ petition was filed in the year 2006 and at the time when it was admitted on 20.11.2006, no interim order was granted. Therefore, by efflux of time, there is no necessity for this Court to keep this writ petition pending and it can be closed with an observation that if the petitioner's Company has been re-habilitated by the BIFR, then it is always open to the petitioner to approach the fourth respondent for appropriate relief. Equally, the fourth respondents is also entitled to proceed further in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

abr

To

- 1.The Assistant Commissioner of Central Excise,
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 - 2.The Superintendent of Central Excise,
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 - 4.The Commissioner of Central Excise,
6/7, ATD Street, Race Course Road, Coimbatore-18.
- + 1 cc to M/s. K.S. Ramasamy, Advocate SR.72039

W.P.No.44595 of 2006

RSI(CO)
EU(09/11/2017)



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