BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.08.2017
CORAM :
THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**
Crl.R.C.(MD).No.560 of 2017

M/s.Indroyal Furniture Co.,(P) Ltd.,
Represented by its Director
N.Madhusoodhanan. : Petitioner

Vs.

State through the Deputy Commissioner
of Central Excise (Legal), Office of the
Commissioner of Central Excise,
Central Revenue Buildings,
Tractor Road, NGO “A” Colony,
Tirunelveli-627 007. : Respondent

PRAYER: Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure, to set aside the order dated 27.06.2017 in Crl.M.P.No.351 of 2016 in C.C.No.1 of 2014 on the file of the Additional Chief Judicial Magistrate, Madurai with regard to the dismissal and consequently discharge the petitioner from C.C.No.1 of 2014.

For Petitioner : Mr.S.Renganathan
For Respondent : Mr.M.C.Arul Vadivel @ Sekar
Special Public Prosecutor

O R D E R

The petitioner is the 1st accused in a complaint, filed by the respondent herein, in C.C.No.1 of 2014 on the file of the Additional Chief Judicial Magistrate, Madurai. Earlier the complaint has been given against the petitioner as well as the another accused, the Director of the petitioner's company for violation of the provisions of Rules 4,6,8,10,11 and 12 of Central Excise Rules, 2002, which is punishable under Sections 9 (1) (a) (i), 9 (1) (b) (i), 9 (1) (bb) (i) and 9 (1) (c) (i) of Central Excise Act, 1944 read with Section 9AA and A2 is punishable under the provisions of Section 9 (1) (d) for abetting A1 company for committing the offence. The petitioner / A1 filed a petition to discharge from the above charges. The Court below dismissed the same. Challenging the same, the present revision has been filed.

2. Heard Mr.S.Renganathan, learned counsel for the petitioner and Mr.M.C.Arul Vadivel @ Sekar, learned Special Public Prosecutor for the respondent.

3. The learned counsel for the petitioner would submit that the petitioner is a company and there is no allegation in the

complaint for the offence under Section 9 (1) (d) (i) of the Central Excise Act, 1944, which relates to abetment, the petitioner, being a company, cannot be charged for the offence under Section 9 (1) (d) (i) of the Central Excise Act, 1944. But the Court below wrongly framed charges against the petitioner for the offence under Section 9 (1) (d) (i) of the Central Excise Act, 1944. In the above circumstances, the charges, against the petitioner, being the company, for the above said offence, are not maintainable. The learned counsel appearing for the respondent also fairly submitted that the petitioner, being the company, cannot be charged under Section 9 (1) (d) (i) of the Central Excise Act, 1944.

4. I have considered the rival submissions.

Section 9 (1) (d) (i) of the Central Excise Act, 1944 reads as follows:

" *Section 9. Offences and penalties- (i) Whoever commits the following offence, namely,*

(d) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) and (b) of this section;

[shall be punishable,-

(i) in the case of an offence relating to any excisable goods, the duty leviable thereon under this Act exceeds one lakh of rupees, with imprisonment for a term which may extend to seven years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the Judgment of the Court such imprisonment shall not be for a term of less than six months;

(ii) in any other case, with imprisonment for a term which may extend to three years or with fine or with both.]

5. As rightly pointed out by the petitioner, the petitioner, being the company, cannot be charged for the offence under Section 9 (1) (d) (i) of the Central Excise Act, 1944, On perusal of the complaint, there is no allegation against the petitioner for the violation of 9 (1) (d) (i) of the Central Excise Act, 1944.

6. In the above circumstances, the charges framed against the petitioner for the offence under Section 9 (1) (d) (i) of the Central Excise Act, 1944, is not maintainable, and the first petitioner discharged from the charges under Section 9 (1) (d) (1) of the Central Excise Act, 1944.

7. In the result, this Criminal Revision Case is partly allowed. The first petitioner discharged from the charges under Section 9 (1) (d) (1) of the Central Excise Act, 1944 alone, and

the Criminal Revision Case is dismissed in respect of other aspects. The Trial Court is directed to proceed with the trial and complete the same as expeditiously as possible.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1.The Additional Chief Judicial Magistrate,
Madurai.

2.Special Public Prosecutor for Central Excise,
Madurai Bench of Madras High Court, Madurai.

COPY TO:
The record Keeper,
V.R Section, Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.S.RENGANATHAN, Advocate SR.No.67788
+1cc to M/S.M.C.Arul Vadivel @ Sekar, Advocate SR.No.67331

sm/psd
MAS/JC/SAR1:22.09.2017:3P-6C

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16.08.2017(2/2)