



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.8258 of 2013

and

M.P(MD)No.1 of 2013

M/s.Indian Oil Corporation Ltd.,
represented by its
Chief Finance Manager,
Harbour Estate,
Tuticorin - 628 004.

... Petitioner

Vs.

1. Customs, Excise and Service Tax
Appellate Tribunal (South Zonal Bench),
No.26, Haddows Road,
Chennai - 600 006.

2. The Commissioner of Central Excise,
Office of the Commissioner of Central Excise,
C.R.Building, N.G.O. 'A' Colony,
Tirunelveli - 627 007.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned Miscellaneous Order No.40852 of 2013, dated 03.04.2013 on the file of the first respondent and quash the same and consequently, direct the first respondent to hear the appeal without insisting the pre-deposit and pass orders in accordance with law.

For Petitioner : Mr.Mohammed Shaffiq
For Respondents : Mr.R.Aravindan for R.2

ORDER

The petitioner has filed this writ petition against the Miscellaneous Order passed by the Customs, Excise and Service Tax Appellate Tribunal (South Zonal Bench), Chennai, directing him to make a pre-deposit of Rs.75,00,000/- (Rupees Seventy Five Lakhs only).

2. On 15.05.2013, when the matter was taken up for admission, this Court granted an order of stay on condition that the petitioner should deposit a sum of Rs.35,00,000/- (Rupees Thirty Five Lakhs only).

3. Today, when the matter is taken up for hearing, the learned Counsel for the petitioner has produced a copy of the e-Receipt for Central Service Tax Payments, dated 17.05.2013 and submitted



that the conditional order dated 15.05.2013 passed by this Court has been complied with by the petitioner.

4. On a perusal of the copy of the e-Receipt for Central Service Tax Payments, dated 17.05.2013, it is seen that the petitioner has deposited a sum of Rs.35,00,000/- (Rupees Thirty Five Lakhs only) on 17.05.2013, in compliance of the condition imposed by this Court in the order dated 15.05.2013.

5. The learned Counsel for the petitioner would submit that the matter is listed today before the first respondent - Tribunal, but due to the order of interim stay granted by this Court, it could not be proceeded with.

6. The statement made by the learned Counsel for the petitioner that the matter is pending on account of the order of interim stay granted by this Court, is accepted by the learned Standing Counsel appearing for the second respondent. However, he would contend that unless the balance amount of pre-deposit as directed by the Tribunal is paid, the appeal cannot be disposed of.

7. Heard both sides.

8. The petitioner being a Public Sector Undertaking to show their *bona fides*, deposited a sum of Rs.35,00,000/- (Rupees Thirty Five Lakhs only) as directed by this Court in the order dated 15.05.2013. In any event, there is no complete waiver of pre-deposit, but the order of the Tribunal is modified to the extent of directing the petitioner to make a pre-deposit of Rs.35,00,000/- (Rupees Thirty Five Lakhs only).

9. Considering the fact that the said direction is complied with and pre-deposit has been made, this Court is inclined to direct the Tribunal to dispose of the appeal filed by the petitioner on merits without insisting for the balance amount towards pre-deposit. In the event of final orders being passed, the petitioner shall comply with the same before making further appeal, if any.

10. In fine, this writ petition is disposed of with the above observations. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

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Appellate Tribunal (South Zonal Bench),
No.26, Haddows Road,
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2. The Commissioner of Central Excise,
Office of the Commissioner of Central Excise,
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+1cc to Mr.S.P.Maharajan, Advocate Sr.No.63998

RSB

VB/SKN/RSK/SAR1/29/05/2018/3P/4C

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