

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.02.2019

Pronounced on : 13.06.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.22558 of 2004

and

WMP.No.27281 of 2004

Rajendran

... Petitioner

Vs

1.The District Industries Centre
rep. by its General Manager,
Dharmapuri District.

2.The Tahsildar,
Pappireddi Patti,
Dharmapuri.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records on the file of the first respondent in proc.No.12598/A3/98 dated 14.05.2004 and to quash the same as illegal, incompetent, irregular and without jurisdiction.

For Petitioner : Mr.Avinash Wadhvani
for Mr.V.Raghavachari

For Respondents : Mr.K.Rajendraprasad, AGP

O R D E R

The order of recovery of the Capital Subsidiary Amount of Rs.1,11,900/- from the petitioner herein for violation of the terms and conditions governing the sanction of State Capital Subsidiary has been challenged in the present Writ Petition.

2. Heard Mr.Avinash Wadhvani, learned counsel for the petitioner and Mr.K.Rajendraprasad, learned Additional Government Pleader appearing on behalf of the respondents.

3. By an order dated 24.11.1997, the first respondent herein, was of the view that the petitioner herein ought not to

have sold the Unit, within a period of 5 years from the date of commencement of production, which is in violation of the terms and conditions, governing the State Capital Subsidiary. In view of the violation, the Commissioner and Director of Industries and Commerce in a letter dated 31.10.1997, had ordered to recover the entire State Capital Subsidiary amount of Rs.1,11,900/- and therefore, had called upon the petitioner to remit the subsidiary amount together with interest.

4. Challenging the said order dated 24.11.1997, the petitioner herein had filed a Writ Petition in W.P.No.20167 of 2003 and this Court, by an order dated 13.08.2003, had dismissed the Writ Petition on the ground that the petitioner had challenged the order dated 24.11.1997 after a delay of 6 years and in the absence of any reasons for the delay, the Writ Petition was dismissed on the ground of laches. Challenging the order in the Writ Petition, the petitioner herein had filed an appeal in W.A.3452 of 2003, on 05.03.2004, the petitioner herein was permitted to withdraw the Writ Appeal with liberty to file a fresh Writ Petition, challenging the fresh demand. The effect of the withdrawal would entitle the petitioner to the limited extent of challenging the fresh demand on any discrepancy in the demand alone, since the original demand dated 24.11.1997 had attained finality. In other words, when the order in W.P.No.20167 of 2003 has become final, the ground raised therein, cannot be re-agitated in the present Writ Petition and the petitioner would be entitled to challenge any infirmity or discrepancy in the fresh demand made, in view of the liberty granted by the Hon'ble Division Bench in the Writ Appeal.

5. In the present case, the learned counsel for the petitioner raised several grounds touching upon the authority of the first respondent to seek for refund of the subsidiary and on the ground of limitation. The learned Additional Government Pleader, submitted that the earlier order of this Court in W.P.No.20167 of 2003 has become final and since the petitioner had also paid a sum of Rs.5000/- towards part satisfaction of the total subsidiary amount, there is no delay in claiming revision.

6. The submission on the ground of limitation was also available to the petitioner in the earlier Writ Petition, which cannot now be re-agitated. Since the petitioner has not raised any ground challenging the subsequent demand on the ground of any infirmity or discrepancy therein, the prayer itself is liable to be rejected on the ground that the Writ Petition is not maintainable in view of the earlier orders of this Court in the Writ Petition as well as the Writ Appeal.

7. For all the foregoing reasons, I do not find any merits in the present Writ Petition. Accordingly, the Writ Petition

stands dismissed. Consequently, connected Miscellaneous
Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

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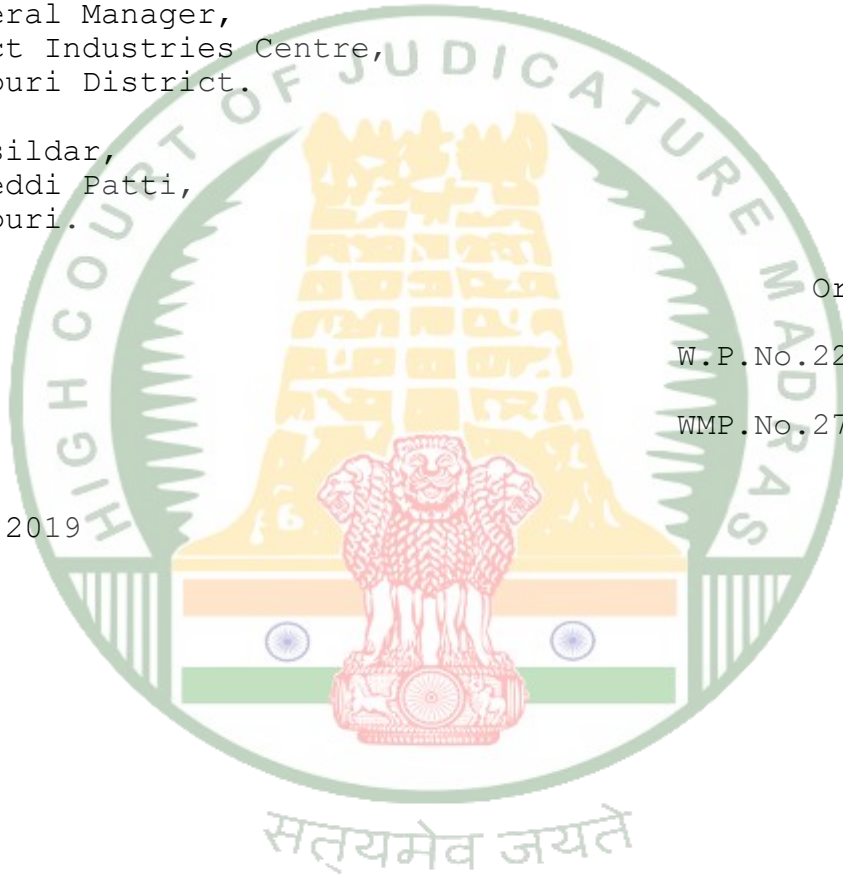
Sub Assistant Registrar

To

- 1.The General Manager,
District Industries Centre,
Dharmapuri District.
- 2.The Tahsildar,
Pappireddi Patti,
Dharmapuri.

Order made in
W.P.No.22558 of 2004
and
WMP.No.27281 of 2004

GP (CO)
CSL/05.07.2019



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