IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13722 of 2010
And
M.P.Nos.1 and 2 of 2010

M/s.Naresh International
Rep. by its Partner
Mr.Naresh Chand ... Petitioner

Vs.

1.The District Forest Officer,
Salem Division,
Salem.

2.The Commercial Tax Officer,
Salem Division. ... Respondents

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the 1st respondent relating to the impugned proceedings no.5553/99 S dated 28.05.2010 and quash the same.

For Petitioner : M/s.T.Kokilavane

For Respondents : Mr.G.B.Rajesh
Government Advocate (Forests)

O R D E R

The writ petition has been filed challenging the correctness of the impugned order bearing Proc.No.5553/99 S dated 28.05.2010 issued by the District Forest Officer, the first respondent herein.

2.When the matter is taken up for hearing, the learned counsel appearing for the petitioner would submit that the issue raised in the writ petition has been taken up to the Apex Court and finally, by order dated 07.08.2007 in Civil Appeal No.2421 of 2006, the Hon'ble Apex Court has directed the parties to approach the competent authorities.

3.The learned Government Advocate would submit that on the basis of paragraph 4 of the above order, the writ petition may be disposed of.

4.A perusal of the above order shows that when demands were made by the assessing authorities and also the District Forest Officer for payment of tax under the Tamil Nadu General Sales Tax Act, 1959, the appellant therein had furnished the bank guarantees. It further reveals that if the appellant therein succeeds before the assessing authority, the excess amount paid by the appellants shall be refunded to them within the statutory period. It is pertinent to refer paragraph 4 of the above order as under:

> '4.We are informed that when demands were made by the assessing authorities and also the District Forest Officer for payment of tax under the Tamil Nadu General Sales Tax Act, 1959, (for short, "the Act"), the appellant herein had furnished the bank guarantees. Shri Bagaria, on instructions, would submit that those bank guarantees in are kept alive. If that is so, we now permit the assessing authorities of the State of Tamil Nadu to encash the bank guarantees towards the payment of tax dues by the appellant. If, for any reason, the appellant succeeds before the assessing authority, the excess amount paid by the appellants shall be refunded to them within the statutory period and if the same is not paid within the said period, the excess amount will carry the statutory interest.'

5.Learned counsel appearing for the petitioner submitted that the petitioner had furnished the bank guarantee and that was subsequently encashed.

6.Be that as it may. Since the petitioner has to approach the competent authority, the writ petition is disposed of directing the petitioner to approach the Commercial Tax Officer, Salem Division, the second respondent herein, who is directed to consider the case of the petitioner and dispose of the same, on merits and in accordance with law within a period of four weeks. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

1.The District Forest Officer,
Salem Division,
Salem.

2.The Commercial Tax Officer,
Salem Division.

+1cc to Mr.T.Kokilavane, Advocate SR.No.63231

+1cc to Government Pleader SR.No.63693

W.P.No.13722 of 2010
And
M.P.Nos.1 and 2 of 2010

VBA(CO)
GMY(04/09/2019)
GMY(03/10/2019)