IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.Nos.5101, 5102, 5103, 5104 & 5105 of 2016
and
Crl.M.P.Nos.2658, 2659, 2660, 2661, 2662, 2663, 2664, 2711, 2665 & 2666 of 2016

1. M/s. Farwood Industries (P) Limited,
Represented by its Managing Director
M.P.Farooq
4/605, Old Mahabalipuram Road,
Perungudi, Chennai - 600096.

2. M.P.Farooq
Managing Director,
M/s. Farwood Industries (P) Limited,
4/605, Old Mahabalipuram Road,
Perungudi, Chennai - 600096.

...Petitioners in all Crl.Ops/Accused 1 & 2

Vs.

The Assistant Commissioner of Central Excisse
Prosecution, Commissioner III,
Chennai.

...Respondent in all Crl.Ops.

COMMON PRAYER : Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records connected with C.C.No.58 of 2001, C.C.No.59 of 2001, C.C.No.62 of 2001, C.C.No.60 of 2001, C.C.No.61 of 2001 respectively, on the file of the Additional Chief Metropolitan Magistrate for Economic Offence Cases (E.O.I.), Egmore, Chennai and quash the same.

For Petitioners: Mr.N.Viswanathan in all Petitions

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor in all Petitions

O R D E R

These Criminal Original Petitions are filed to call for the records pending on the file of the Additional Chief Metropolitan Magistrate for Economic Offence Cases (E.O.I.), Egmore, Chennai, in C.C.No.58 of 2001, C.C.No.59 of 2001, C.C.No.62 of 2001, C.C.No.60 of 2001, C.C.No.61 of 2001 respectively and quash the same.

2. Among the several grounds raised by the petitioner, seeking to quash the complaint filed by the respondent herein, the learned counsel appearing for the petitioner had predominantly highlighted the benefit available to him under Circular No.1018/6/2016 CX dated 29.02.2016 as well as the subsequent Circular dated 27.08.2019 in Circular No.1071/4/2019-CX.8.

3. As per the earlier Circular dated 29.02.2016, there were certain directions given for withdrawal from prosecution of the cases where evasion of Central Excise Duty was less than Rs.5,00,000/- and where prosecution was pending for more than 15 years. Insofar as the Circular dated 27.08.2019 is concerned, a scheme was introduced whereby, all the cases pending in adjudication or appeal (at any forum), the relief was to the extent of 70% of the duty involved if it is Rs.50,00,000/- or less, compounding the offences, was made permissible.

4. The learned counsel appearing for the petitioners submitted that in view of these two Circulars issued by the CBDT, they would be entitled for the benefits of both the Circular as well as the scheme.

5. The learned Special Public Prosecutor appearing for the respondent, on the other hand, submitted that the issue is to whether the petitioner would be entitled for such benefits, could be taken by the Department itself.

6. The learned counsel appearing for the petitioners, at this juncture, submitted that they had earlier made a pre-deposit of Rs.10,00,000/- at the time of filing of an appeal before the CESTAT, which amount could be adjusted while the respondent extends the benefits of the scheme to the petitioners.

7. In view of the Circular dated 29.02.2016 as well as the subsequent scheme dated 27.08.2019, this Court is of the view that it would be appropriate for the respondent herein, to consider the petitioners' request which could be made by way of an application seeking for the benefits of the Circulars referred above.

8. In the light of the above observations, the petitioners are granted liberty to make an appropriate application before the appropriate Authority of the Central Excise, who shall be entitled to deal with an application to extend the benefit of the scheme under the Circular dated 27.08.2019. On receipt of

such an application, the subject Authority shall take into account the deposits made by the petitioners herein and which is lying with the Department, for the purpose of adjusting the same when any demand is made, while applying the scheme. In the alternative, the petitioners are also at liberty to raise the plea of withdrawal of the prosecution as per the Circular dated 29.02.2016 and such a plea shall be dealt with by the Authority, on its own merits. The Authority shall endeavor to consider the application as expeditiously as possible, in any event, within a period of eight weeks from the date of receipt of the petitioners' application enclosing a copy of this order. In the meantime, the proceedings in C.C.No.58 of 2001, C.C.No.59 of 2001, C.C.No.62 of 2001, C.C.No.60 of 2001, C.C.No.61 of 2001 pending on the file of the Additional Chief Metropolitan Magistrate for Economic Offence Cases (E.O.I.), Egmore, Chennai, shall be stayed for the period of two months from today.

9. With the above directions, these Criminal Original Petitions are disposed of, accordingly. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner of Central Excisse
   Prosecution, Commissioner III,
   Chennai.

2. The Special Public Prosecutor,
   High Court of Madras.

+2cc to Mr.N.Viswanathan, Advocate sr.85885

Crl.O.P.Nos.5101, 5102, 5103, 5104 & 5105 of 2016

pvs(co)
nr 16/10/2019