



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 09.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6953 of 2009
& MP.No.1 of 2013

M/s. Flow Tech Power,
Rep. by its Partner,
Mr.C.Gopal,
114-E, Keeranathampirivu, Sathy Road,
Saravanampatty,
Coimbatore - 641 035.

...Petitioner

Vs

The Assistant Commissioner of Central Excise,
Coimbatore II Division,
1441, Elgi Building, Trichy Road,
Coimbatore - 641 018.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records comprised in impugned show cause notice No.C.No.V/84/18/30/2008- Refund dated 02.03.2009 on the file of the respondent and quash the same and consequently direct the respondent to sanction the interest for refund from the date of expiry of the three months from the receipt of the application for refund i.e., 2.3.2001 to 31.6.2004 in terms of the Explanation to Section 11BB of the Central Excise Act 1944.

For Petitioner : Ms.P.Kanthi Visalakshi
for M.s.G. RM. Palaniappan

For Respondent : Mr.K.S.Ramasamy,
CGSC

O R D E R

The order under challenge in the present writ petition is the show-cause notice dated 02.03.2009, whereby the petitioner



herein were called upon to show-cause, as to why the claim dated 10.12.2008, seeking sanction of interest, should not be interfered. The grounds raised in the present writ petition may not warrant for an interference, since such grounds are always available to the petitioner herein to raise before concerned authorities by way of reply to the show-cause notice. Under Article 226 of the Constitution of India, a challenge to a show-cause notice is very limited and grounds raised by the petitioner may not be under such exemptions, entitling them to claim for quashing the show-cause notice.

2. Nevertheless, if the petitioner is granted liberty to raise these grounds by way of reply to the show-cause notice, the ends of justice could be secured. In the light of the above observations, the writ petition stands closed, with liberty to the petitioner to file their objections, within a period of 15 days from the date of receipt of a copy of this order. On receipt of such reply, the respondents shall dispose of the same, in accordance with law, as expeditiously as possible.

3. Accordingly, the writ petition is closed. No Costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

Pkn.

To

The Assistant Commissioner of Central Excise,
Coimbatore II Division,
1441, Elgi Building, Trichy Road,
Coimbatore - 641 018.

+1 CC to Mr.G.RM. Palaniappan, Advocate sr 57617.

+1 CC to Mr.K.S.Ramasamy, Advocate sr 57580.

W.P.No.6953 of 2009

RSI (CO)
SP(27/08/2019)