

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.22972 of 2005
and
W.M.P.No.25039 of 2005

Shree Karthik Papers Ltd.,
Rep. by its Director, Selvambal,
No.13, ATD Street, Race Course,
Coimbatore-18. Petitioner

Vs

1. The Deputy Commissioner,
Tax Recovery Cell,
Office of the Commissioner of
Central Excise,
Coimbatore - 18.
2. The Superintendent of Central Excise,
Pollachi II Range,
Jothi Nagar, 'D' Colony,
Pollachi. Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India to pass an order of Writ of Certiorari,
calling for the records on the file of the second respondent in
O.C.No.230 of 2005 dated 17.05.2005 and quash the same.

For Petitioner : Mr.M.Krishnappan,
Senior Counsel for
Ms.R.Swarnalatha

For Respondents : Mr.S.R.Sundar

O R D E R

The relief sought for in the present writ petition is to
quash the order in O.C.No.230 of 2005 dated 17.05.2005, on the
file of the second respondent.

2. The learned Senior Counsel for the petitioner submits that, during the pendency of the proceedings, a Draft Rehabilitation Scheme has been sanctioned by the Board for Industrial and Financial Reconstruction (BIFR), vide proceedings, dated 11.05.2007, in which, a direction has been issued to waive the interest levied by the Excise Department, for the financial years 2002 and 2005 respectively, for delayed payment of excise duty. In the light of the same, the respondents are restrained from demanding interest amount and shall abide by the decision of the BIFR in the Scheme, which was sanctioned on 11.05.2007.

3. At this juncture, the learned Senior Counsel further submits that pursuant to the interim order of this Court dated 19.07.2005, the petitioner had deposited a sum of Rs.17,383/- being 25% of the interest on the delayed payment of excise duty.

4. In view of the final orders passed in the writ petition today, the respondents shall not be entitled for retaining the amount of Rs.17,383/-. As such, there shall be a direction to the respondents to refund the amount of Rs.17,383/- deposited by the petitioner pursuant to the interim order of this Court dated 19.07.2005 or in the alternate adjust the same with the subsequent payment of excise duty payable by the petitioner herein. In case the respondents opt for adjusting the amount, the same shall be done atleast within a period of six months from the date of receipt of a copy of this order.

5. Accordingly, the writ petition stands ordered. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

vum/hvk

To

1. The Deputy Commissioner,
Tax Recovery Cell,
Office of the Commissioner of
Central Excise,
Coimbatore - 18.

2. The Superintendent of Central Excise,
Pollachi II Range,
Jothi Nagar, 'D' Colony, Pollachi.

+1cc to Mr.R.Swarnalatha, Advocate, S.R.No.48386
+1cc to Mr.S.R.Sundar, Advocate, S.R.No.48428

W.P.No.22972 of 2005
and
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NRL (CO)

RRS (05/07/2019)



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