IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.2841 of 2010
and
M.P.No.1 of 2010

M/s.Lavanya Electricals,
No.17, Prakasam Street,
Erode: 638001. ...Petitioner

Vs

The Union of India,
Rep. by the Superintendent of
Central Excise,
Office of the Superintendent of
Central Excise, Erode I,
Range 81, Bharathi Nagar,
Veerappanchatram,
Erode: 638004. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned summons in OC.65/2010 dated 21.01.2010 on the files of the respondent herein and quash the same.

For Petitioner : Ms.D.Naveena
for Mr.S.Durairaj

For Respondent : Mrs.Hema Muralikrishnan, SSC

ORDER

The summons issued under Section 14 of the Central Excise Act, 1944, is under challenge in the present writ petition.

2. By relying upon the instructions of CBEC Board of the Service Tax Department, dated 26.02.2007, the learned counsel for the petitioner submits that the summons is not in conformity with the instructions and thereby, liable to be struck off. Apart from this ground, the learned counsel would also submit that the petitioner was earlier summoned in connection with the same investigation, wherein the documents sought for in the

present impugned summons has already been provided. As such, the counsel would submit that the enquiry, which the respondent contemplate to initiate pursuant to the summons, is unwarranted.

3. This Court is not in agreement with such submissions. First of all, the writ petition cannot be maintained, when the summons is put under challenge. No doubt true, when the jurisdiction or the powers of the authority to issue summons is under question, the writ petition could be maintained. In the instant case, it is not the ground raised by the petitioner. As a matter of fact, it is also admitted by the petitioner that the powers to issue the summons under Section 14 of the Central Excise Act are available to the authorities. The perusal of the instructions of CBEC Board, dated 26.02.2007, shows that the summons itself is very much in conformity with the instructions and as such, the petitioner cannot sustain the ground raised on this aspect. Secondly, the documents and records which the respondent had sought for production through the impugned summons are not one and the same which were a subject matter in the earlier enquiry. Even otherwise, I am unable to see the prejudice that would be caused to the petitioner in producing these documents before the authorities, particularly when there is a duty cast on the petitioner to cooperate with the respondent for the purpose of investigation. Insofar as the other grounds raised by the learned counsel for the petitioner touching upon the facts of the case, it can only be remarked that these grounds are very much available with the petitioner to submit it to the respondent pursuant to the summons and as such, the summons itself cannot be quashed on this ground.

4. For all the foregoing reasons, I do not find any merit in the writ petition. Since the summons has been issued way back in the year 2010 and nine years have lapsed, it would be appropriate to call upon the respondent to complete the enquiry within a stipulated time.

5. In the light of the above observations, the writ petition stands dismissed. The respondent shall endeavour to complete the enquiry pursuant to the impugned summons, as expeditiously as possible, in any event, within a period of 3 months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

hvk

To

The Superintendent of Central Excise,
The Union of India,
Office of the Superintendent of
Central Excise, Erode I,
Range 81, Bharathi Nagar,
Veerappanchatram,
Erode: 638004.

+1cc to M/s.Durairaj, Advocate sr.56302
+1cc to Mrs.Hema Muralikrishnan, Advocate sr.56147

W.P.No.2841 of 2010
and
M.P.No.1 of 2010

gp(co)
nr 26/08/2019