

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2019

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THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.31744 & 31745 of 2005 and
W.P.M.P.No. 34803 & 34804 of 2005

Rasi Engineering Works
Represented by its Managing
Partner, R.Krishnamurthy,
Post Box No. 15,
37 Bye- pass Road,
Ukkadam,
Coimbatore - 641 001. ... Petitioner in W.P.No. 31744 of 2005

M/s. N.S.R. & Company,
Rep. By Sole Proprietor,
N. Sethuraman,
New No.6, Old No. 32,
North Mathappa Lane,
Kumbakonam - 612 001. ... Petitioner in W.P.No. 31745 of 2005

Vs

- 1.The Assistant Controller of Legal Metrology
The Deputy Inspector of Labour,
(Storage Tanks)
Coimbatore.
 2. The Controller of Legal Metrology,
Office of the Commissioner of Labour
Teynampet,
Chennai - 600 006.
 3. The Secretary to Government,
Labour and Employment Department,
Government of Tamil Nadu,
Secretariat, Chennai - 9.
 4. The Secretary to Union of India,
Ministry of Food and Consumer Affairs,
New Delhi 110 001. ... Respondents in W.P.No. 31744 of 2005
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1. The Inspector of Legal Metrology
(Stamping Inspector) Kumbakonam.

2. The Controller of Legal Metrology,
Office of the Commissioner of Labour
Teynampet,
Chennai - 600 006
3. The Secretary to Government,
Labour and Employment Department,
Government of Tamil Nadu,
Secretariat, Chennai - 9.
4. The Secretary to Union of India,
Ministry of Food and Consumer Affairs,
New Delhi 110 001. ...Respondents in W.P.No. 31745 of 2005

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order stated 10.08.2005 made in WMA No.1 & 2 of 2005 by the 2nd respondent confirming the collection of fees by the 1st respondent and quash the same as illegal, against law and direct refund / adjust the additional fee collected.

For Petitioners : Mr.K.V.Ananthakrushnan
(in both Writ Petitions)

For Respondents : Mr.Akhil Akbar Ali,
Government Advocate for R1 to R3

M/s.R.Meenakshi,
Central Government Standing
Counsel(CGSC) for R4

C O M M O N O R D E R

The orders dated 10.08.2005 passed in WMP No.1 & 2 of 2005 by the 2nd respondent, confirming the collection of fees by the 1st respondent are sought to be quashed in the present writ petitions.

2. The learned counsel for the petitioners state that the petitioners are registered partnership Firms and engaged in manufacture of weight, measures, weighing and measuring instruments ever since 1976 & 1968. The petitioners are a licensed manufacturer and dealer, having valid license and renewing the license periodically.

3. The grievances of the writ petitioners are that the manufacturer is not liable to pay the Stamping Charges as per

the Rules. However, the respondents had erroneously inflicted the Stamping Charges on the writ petitioners contrary to the provisions of the statutes. Thus, the writ petitioners are constrained to move the present writ petitions.

4. The learned counsel for the writ petitioners brought to the notice of this Court that the Government issued G.O.Ms.No. 35 (Labour and Employment Department) dated 21.03.2006, amending the rules. As per the amended Rules, the manufacturers are excluded from the liability to pay the liability charges and the user alone is liable to pay the Stamping charges as applicable in view of the exemption granted. As far as the manufacturers are concerned, the benefit is to be extended to the writ petitioners. The writ petitioners had already paid an amount of Rs.17,000/- in this regard to the 2nd respondent.

5. The learned counsel for the writ petitioners state that the said amount is to be reimbursed. However, all these facts and circumstances are to be verified and accordingly, the case of the writ petitioner is to be considered in the light of the Government order passed in G.O.Ms.No.35, (Labour and Employment Department) dated 21.03.2006.

6. Under these circumstances, the writ petitioners are permitted to submit a fresh representation along with all the factual details and the relevant Government orders within a period of four(4) weeks from the date of receipt of a copy of this order and on receipt of any such application from the writ petitioners, the 1st respondent is directed to consider the same and pass orders on merits and in accordance with law within a period of twelve(12) weeks thereafter.

7. With these directions, both the writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kak/kmm

To
1.The Assistant Controller of Legal Metrology
The Deputy Inspector of Labour,
(Storage Tanks)
Coimbatore.

2. The Inspector of Legal Metrology
(Stamping Inspector)
Kumbakonam.
3. The Controller of Legal Metrology,
Office of the Commissioner of Labour
Teynampet,
Chennai - 600 006
4. The Secretary to Government,
Labour and Employment Department,
Government of Tamil Nadu,
Secretariat, Chennai - 9.
5. The Secretary to Union of India,
Ministry of Food and Consumer Affairs,
New Delhi 110 001.

+2 cc's to M/s.K.V.Ananthakrushnan, Advocate Sr.No.5890 & 5891
+1 cc to The Government Pleader, Sr.No.6034

W.P.No. 31744 & 31745 of 2005

MR(CO)
CSL/19.02.2019