



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE. ABDUL QUDDHOSE

W.P(MD) .No.3005 of 2019
and
W.M.P. (MD) No.2245 of 2019

B.Kandasamy,
Partner of M/s.Pandyan Pyrotechnics,
D.No.9/39, East Street, Gangarakottai,
Keela Chelliahpuram,
Elayirampennai - 626 201.
Sattur Taluk, Virudhunagar District. : Petitioner

Vs.

The Joint Commissioner of Central
GST and Central Excise,
Central Revenue Building,
Bibikulam,
Madurai -625 002. : Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari, calling for the entire records relating to Order-in-Original No.MDU.CE-JC-20/2018 dated 27.09.2018 (date of issue 06.12.2018) passed by the respondent to that extent of imposing penalty on the petitioner and quash the same.

For petitioner : Mr.J.Sankararaman
For Respondents : Mr.R.Aravinthan

ORDER

The instant Writ Petition has been filed seeking for pre-deposit waiver for filing an appeal before the first respondent.

2.It is the case of the petitioner that the respondent passed an order dated 06.12.2018 against the partnership firm M/s.Pandian Pyrotechnics as well as the petitioner, who is the partner in the said firm. According to the learned counsel, the partnership firm has already preferred an appeal against the order dated 06.12.2018 passed by the respondent on 11.12.20018 itself along with mandatory pre-deposit for preferring appeal. Since the partnership firm has already paid the pre-deposit amount for filing the appeal, the petitioner seeks waiver of the depositing amount for filing the



appeal.

3. Heard Mr.J.Sankararaman, learned counsel for the petitioner and Mr.R.Aravinthan, learned Standing counsel for the respondent.

4. The learned counsel for the petitioner has placed a notice dated 27.02.2009 sent by the respondents to the partnership firm M/s.Pandian Pyrotechnics, in which the petitioner is a partner, informing that the appeal filed by M/s.Pandian Pyrotechnics as against the order in Order-in-Original No.MDU.CE-JC-20/2018 dated 27.09.2018 has been received by their office on 11.02.2019 and the appeal has been numbered as Appeal No.13 of 2019. It is also submitted by the learned counsel for the petitioner that the pre deposit amount has been paid by M/s.Pandian Pyrotechnics for filing the appeal before the Commissioner of GST and Central Excise (Appeals), Coimbatore, having Circuit Office at 4, Lal Bahadur Shashtri Marg, C.R. Buildings, Madurai-2. Since, the partnership firm M/s.Pandyan Pyrotechnics, has already paid the pre-deposit amount for filing the appeal, this Court is of the considered view that the petitioner need not pay the pre-deposit amount once again as the impugned order challenged by the partnership firm as well as by the partner is one and the same.

5. For the aforesaid reasons, the petitioner is permitted to file an appeal before the Commissioner of GST and Central Excise (Appeals), Coimbatore having Circuit office at 4, Lal Bahadur Shashtri Marg, C.R. Buildings, Madurai-2 as against the Order-in-Original No.MDU.CE-JC-20/2018 dated 27.09.2018 (date of issue 06.12.2018) within a period of two weeks from the date of receipt of a copy of this order and on receipt of the appeal, the Commissioner of GST and Central Excise (Appeals), Coimbatore, having Circuit office at 4, Lal Bahadur Shashtri Marg, C.R. Buildings, Madurai-2 shall entertain the said appeal without insisting upon the payment the pre-deposit amount and pass orders in accordance with law herein within a period of eight weeks from the date of receipt of a copy of this order.

6. The Registry is directed to return the original impugned order to the learned counsel for the petitioner to enable the petitioner to file an appeal.

7. With the aforesaid directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar



To

The Joint Commissioner of Central
GST and Central Excise,
Central Revenue Building,
Bibikulam,
Madurai -625 002.

+1cc to Mr.M.Ramasamy, Advocate, SR.No.51818
+1cc to Mr.R.Aravinthan, Advocate, SR.No.51869

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and
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SP/08.03.2019/ 3P/4C