



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **14.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

WEB COPY

W.P. (MD)No.4423 of 2018

and

W.M.P. (MD)Nos.4514 and 7588 of 2018

Ambika Woods Pvt., Ltd.,
Door No.1/952, Tenkasi Road,
Piranoor, Shencottah-627 809,
Tirunelveli District,
represented by its Director.

... Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Tahsildhar,
Senkottai,
Tirunelveli.

3. The Director General of Foreign Trade,
Udyog Bhavan, 'H' Wing, Gate No.2,
Noulana Azad Road,
New Delhi - 110 001.

... Respondents

(R.3 is impleaded vide court order
dated 26.04.2018 made in
W.M.P. (MD)No.7201 of 2018)

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned proceedings of the second respondent dated 31.01.2018 and the consequential order dated 16.02.2018 in Na.Ka.A9/4140 and quash the same.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.K.MU.Muthu,

Additional Government Pleader
for R.1 and R.2

: Mr.V.Kathirvelu

Assistant Solicitor General of India
assisted by Mr.K.Prabhu
for R3



ORDER

Mr.N.Dilip Kumar, learned Counsel for writ petitioner, Mr.K.MU.Muthu, learned Additional Government Pleader for respondents 1 and 2 and Assistant Solicitor General of India and Senior Counsel Mr.V.Kathirvelu, assisted by Mr.K.Prabhu, for third respondent are before this Court.

2. With the consent of aforesaid learned Counsel, State Counsel and Assistant Solicitor General of India, main writ petition is taken up.

3. Read this in conjunction with and in continuation of earlier proceedings of this Court dated 27.09.2019, which reads as follows:

'Mr.N.Dilip Kumar, learned counsel on record for writ petitioner, Mr.K.Mu.Muthu, learned Additional Government Pleader on behalf of respondents 1 and 2 and Ms.S.Ragaventhree on behalf of third respondent led by learned Assistant Solicitor General-Mr.V.Kathirvelu, are before this Court.

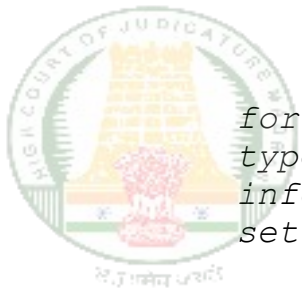
2.This Court is informed that writ petitioner availed certain import duty benefits while importing machinery for its trade on condition that a certain expert obligation has to be met within a stipulated time frame.

3.It is submitted that alleging breach of expert obligation, writ petitioner was mulcted with penalty of Rs.58,40,268/- (Rupees Fifty Eight Lakhs Forty Thousand Two Hundred and Sixty Eight only). 4.It is submitted that this culminated in proceedings under Revenue Recovery Act resulting in two impugned orders dated 31.01.2018 and 16.02.2018 made by second respondent.

5.At the time of admission, this Court granted an interim order on condition that writ petitioner should pay 50% of the outstanding amount in two installments within the dates specified in the interim order dated 02.03.2018.

6.It is writ petitioner's case that 50% of 50% has been so paid by way of Demand Draft in favour of third respondent, but handed over to the second respondent.

7.It is the submission of learned counsel for writ petitioner that the penalty has, since, been set aside by an order made by the Revisional Authority (third respondent) vide an order dated 26.05.2018. It is further submitted that this order has been filed as part of first additional typedset of papers along with 'W.M.P (MD)No.15530 of 2018' (hereinafter referred to as 'WMP'



for brevity) but neither this W.M.P nor first additional typedset of papers are before this Court. This Court is informed that there is also a second additional typed set of papers.

8. This WMP, first and second additional typed set of papers be placed before this Court by the Registry in the next listing.

9. Be that as it may, it is submitted that writ petitioner is entitled to refund of 50% of 50% paid pursuant to 02.03.2018 interim order of this Court as penalty has, since, been set aside by the Revisional Authority.

10. Learned Additional Government Pleader seeks time to get instructions as to whether Demand Draft drawn in favour of third respondent said to have been handed over to second respondent has been forwarded to third respondent.

11. Learned Assistant Solicitor General also seeks time to get instructions about the order of the Revisional Authority and refund, if any.

12. List this matter on **03.10.2019.**

4. Pursuant to aforesaid earlier proceedings, today (14.10.2019), a memo has been filed by third respondent, which reads as follows:

'Office of Jt. Director General of Foreign Trade
117, 1st Main Road, K.K.Nagar, Madurai, Tamilnadu-625 020

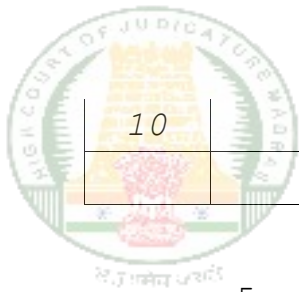
W.M.P. (MD)No.15530 of 2018

in

WP. (MD)No.4423 of 2018

Penalty received from M/s Ambika Woods Pvt. Ltd., against EPCG authorization No.3530001363 dated 23.11.2005.

S.No.	DD No. & Date	Amount in Rs.
1	648375 dt:27.11.2015	25,000
2	145912 dt:06.01.2016	25,000
3	179771 dt:30.03.2016	25,000
4	181467 dt:27.10.2016	25,000
5	179979 dt:30.07.2016	25,000
6	181134 dt:24.08.2016	25,000
7	181630 dt:28.11.2016	25,000
8	181823 dt:23.12.2016	25,000
9	652527 dt:15.02.2018	25,000



10	155504 dt:13.03.2018	4,91,286
	Total	7,16,286

5. There is no disputation or disagreement about the aforesaid memo.

6. Learned Assistant Solicitor General of India for third respondent submitted that the disputed sum of Rs.7,16,286/- (Rupees Seven Lakhs Sixteen thousand two hundred and eighty six only) shall be refunded to writ petitioner as expeditiously as possible and in any event within a period of three (3) months from the date of receipt of a copy of this order.

7. Aforesaid submission made by learned Assistant Solicitor General of India for third respondent is recorded.

8. Instant Writ Petition is disposed of recording the above said trajectory. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildhar,
Senkottai,
Tirunelveli.

3.The Director General of Foreign Trade,
Udyog Bhavan, 'H' Wing, Gate No.2,
Noulana Azad Road,
New Delhi - 110 001.

+1 CC to Mr.K.PRABHU, Advocate (SR-91773[F] dated 14/10/2019)
+1 CC to Mr.N.DILIPKUMAR, Advocate (SR-91944[F] dated 15/10/2019)
+1 CC to Spl.GP (SR-91907[F] dated 15/10/2019)

W.P. (MD)No.4423 of 2018

14.10.2019

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