

**HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD**

Writ Petition No.7669 of 2019

ORDER: *(per V. Ramasubramanian, J)*

Aggrieved by an Order of penalty imposed upon the co-noticee, he has come up with the above Writ Petition.

2. Heard Mr.C.V.Narasimham, learned Counsel for the petitioner, and Mr.B.Narasimha Sarma, learned Senior Standing Counsel for the Department.

3. Unfortunately for the petitioner, the Order impugned in the Writ Petition is that of the Settlement Commission. It is true that the importer has been let off and the co-noticee has been imposed with a penalty. But if on that ground we tinker with the Order of the Settlement Commission, there is every danger of the settlement itself falling through. A settlement is a wholesome settlement, which can be accepted or rejected in total. It cannot be implemented in part setting aside the other portion. May be the Settlement Commission thought that the main importer could be let off, because of their decision to impose a penalty on the petitioner. Therefore, we do not think that we can interfere only with respect to the penalty imposed upon the co-noticee.

4. It appears from the Order of the Settlement Commission, dated 26.06.2018, that the petitioner was granted 30 days time to pay the amount. Since the petitioner was under Preventive Detention, his wife made a request by a letter, dated 21.07.2018, for extension of time to pay the penalty. But it was rejected by the Order, dated 25.07.2018.

5. We are of the view that granting some time to the petitioner to pay the penalty, may not really prejudice the Department. Therefore the Writ Petition is disposed of, confirming the Order of the Settlement Commission, but granting six (6) weeks time from the date of receipt of copy of this order to the petitioner to make payment of the amount.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

T.AMARNATH GOUD, J

April 16, 2019
smr

