IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.6.2020

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.37780 of 2004 & WMP.NO.45325 OF 2004
(heard through video conferencing)

M/s.Sri Sarada Textiles Processors
(P) Ltd., Bhavani-638302. ...Petitioner

Vs

1. Union of India, rep.by its Secretary, Ministry of Textiles, New Delhi.

2. State of Tamil Nadu, rep.by its Secretary, Department of Revenue, Fort.St.George, Chennai-9.

3. The Assessing Officer, Textile Committee, 978A, Thadagam Road, Coimbatore.

4. The District Collector, Erode District, Bhavani. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order passed by the fourth respondent in his proceedings Na.Ka. No.5240/2004, A2 dated 29.7.2004 and quash the same.

For Petitioner : Ms.Charulatha for M/s.Lakshmi Kumaran and Sridharan

For Respondents 1 & 3: Mr.Vikash for Mr.Subba Reddy

For Respondents 2 & 4: Ms.A.Madhumathi, SGP

ORDER

I have heard Ms.Charulatha, learned counsel appearing on behalf of M/s.Lakshmi Kumaran and Sridharan, learned counsel on record for the petitioner, Mr.Vikash, learned counsel appearing on behalf of Mr.Subba Reddy, learned counsel for respondents 1 and 3 and Ms.A.Madhumathi, learned Special Government Pleader appearing for respondents 2 and 4.

2. The proceedings impugned in this writ petition is an action by the fourth respondent initiating revenue recovery proceedings against the petitioner for the purpose of recovering a sum of Rs.46,256/-, which is an amount of cess demanded by the third respondent. As against the demand, the petitioner preferred a statutory appeal before the Textile Committee Cess Appellate Tribunal along with the stay petition on 08.4.2004 and during the pendency of the appeal, at the behest of the third respondent, the fourth respondent directed revenue recovery proceedings to be initiated.

3. When the writ petition was admitted on 20.12.2004, an order of interim stay was granted taking note of the fact that when the statutory appeal is pending before the Textile Committee Cess Appellate Tribunal, it would not be proper for the Authorities to initiate revenue recovery proceedings for recovery of the amount demanded by the third respondent. It goes without saying that if the amount is recovered from the petitioner, the appeal petition filed before the statutory Appellate Authority would become infructuous. It is not clear as to what happened during the pendency of the writ petition. But, the fact remains that there has been an order of interim stay from the year 2004. Therefore, it would be inequitable to disturb the said position nor it would be necessary for this Court to adjudicate the correctness of the proceedings initiated by the third respondent as that has to be done in the appeal filed by the petitioner before the Textile Committee Cess Appellate Tribunal. Furthermore, it is not clear as to whether the Appellate Authority disposed of the appeal. In any event, the impugned revenue recovery proceedings cannot be initiated at this juncture.

4. Accordingly, the impugned proceedings is set aside leaving it open to the Authorities to initiate the same after the disposal of the appeal by the Textile Committee Cess Appellate Tribunal if the same has not already been disposed of. The writ petition is allowed on the above terms. No costs.

Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(MD)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Union of India, Ministry of Textiles, \
   New Delhi.

2. The Secretary to Government of Tamil Nadu, Department of Revenue, Fort.St.George, Chennai-9.

3. The Assessing Officer, Textile Committee, 978A, Thadagam Road, Coimbatore.

4. The District Collector, Erode District, Bhavani.

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GP(CO)
KKV/08/07/2020