IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.01.2021
CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1189 of 2021 and
WMP No.1343 of 2021

K.Kumar ... Petitioner

-vs-

1. The Managing Director,
Tamil Nadu State Marketing Corporation Ltd, (TASMAC),
Head Office, CMDA Tower - II,
IV Floor, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd, (TASMAC)
Salem Region, Salem - 16.

3. The District Manager / Deputy Collector,
Tamil Nadu State Marketing Corporation Ltd, (TASMAC)
Salem District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the 3rd respondent to consider the petitioner's explanation dated 21.12.2020 by following all the procedures as contemplated under Section 6 "Investigation Procedure" and all other procedures of the "Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited - 2014".

For Petitioner : Mr.S.Vinoth Kumar

For Respondents : Mr.K.Sathish kumar

O R D E R

This writ petition has been filed seeking a direction to the 3rd respondent to consider the petitioner's explanation dated 21.12.2020 by following the procedures as contemplated under Section 6 "Investigation Procedure" and all other procedures of the "Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited - 2014".

2. The petition is filed against the show cause notice, which has called for the explanation from the petitioner within a particular time frame and has also noted that failing submission of reply, appropriate action would be initiated.

Pursuant to the same, the petitioner has submitted his explanation on 21.12.2020 relating to the loss of liquor bottles and had also paid the amount towards the loss caused by the petitioner. However, after receipt of the said amount, the respondents had issued another notice demanding penalty of 50% of the amount along with interest at 25% apart from GST.

3. The petitioner has submitted his explanation to the said show cause notice/ demand, which is available at page - 11 of the typed set of documents. It is evident from the said explanation that the petitioner has detailed the entire circumstances leading to the issuance of the show cause and has also stated that the relevant legal provisions in the rules and regulations have not been followed and the said show cause notice is not in compliance with the procedure contemplated.

4. Be that as it may, presently, a show cause notice has been issued for which the petitioner has submitted his explanation. However, even before a decision could be taken on the said explanation, the petitioner has come before this Court by filing the present petition. It is to be pointed out that this Court cannot preclude the respondents from proceeding in a manner known to law and only upon some decision being taken, if that be against the petitioner, it is open to the petitioner to contest the same and needless to say that it is incumbent on the respondents to follow the procedure contemplated and no direction is required to be passed for the same. If the petitioner is aggrieved by any order passed by the respondents on the explanation submitted by him, it is open to the petitioner to have his grievance redressed in a manner known to law.

5. The present petition is accordingly dismissed with the aforesaid observations. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

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AKM/19.2.21 /3P-4C/

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