



W.P(MD). No. 8148 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P(MD). No. 8148 of 2014

and

M.P(MD). No. 1 of 2014

M/s.Ind-Barath PowerGencom Ltd.,
having its Office at
20/129, Chamiers Road,
Nandanam,
Chennai – 600 035.
Acting through its
Authorized Representative
Mr.R.Jarard Kishore

... Petitioner

-VS-

1. Assistant Commissioner (Refunds)
Office of the Commissioner of Customs
Customs House
Tuticorin – 628 004.

2. The Central Board of Excise and
Customs,
North Block,
New Delhi – 110 001.

3. Government of India,
Represented by Assistant Commissioner (Import Assessment)
Department of Revenue
Office of the Commissioner of Customs
Customs House
Tuticorin – 628 004.

... Respondents



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Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned letter bearing C.No.VII/20/2730 to 2732/2014-RF issued by Respondent No.1 and dated 26.03.2014 read with impugned letter in C.No.III/48/794/2013-Imp Assmt. Dated 29.01.2014 issued by the Respondent No.3 and quash the same and direct the Respondent No.1 to accept the said 13 refund applications filed by the petitioner in the form and manner filed, without any prior additional requirement of re-assessment of the bill of entries to which such refund application relate, and consider the said refund applications on merit after taking into account the provisions of the Board Circular bearing No. 41/2013 (Cus.) dated 21.10.2013 issued by the Respondent No.2.
(Prayer amended vide order dated 21.08.2019 made in WMP(MD) No.13708 of 2019 in W.P(MD) No.8148/14 by ASMJ).

For Petitioner : Mr. T.Ravichandran

For Respondents : Mr. R.Nandakumar

O R D E R

Heard Mr. T.Ravichandran, Learned Counsel for the Petitioner and Mr. R.Nandakumar, Learned Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.



2. Learned Counsel for the Petitioner has filed a Memo dated 11.10.2022 in which it has been stated as follows:

"2. It is submitted that on an application filed by a Financial Creditor Axis Bank Limited, "Corporate Insolvency Proceedings were initiated against Ind-Barath Power Gencom Limited and the undersigned was appointed as the Interim Resolution Professional by the Adjudicating Authority vide its orders dated 13.11.2019. It is submitted that the Adjudicating Authority NCLT Hyderabad vide the aforesaid order had declared moratorium under Section 14 of the Insolvency and Bankruptcy Code. The copy of the order passed is submitted herewith and the same may be read as part and parcel of the affidavit."

3. Pursuant to the appointment the Resolution Professional ie the undersigned had taken steps as contemplated under the Insolvency and Bankruptcy Code (Code) and IBBI (Insolvency Resolution Process for Corporate Persons Regulations) Regulations 2016 and invited Expressions of Interest from various interested parties. In as much as no Resolution Plans were approved by the Committee of Creditors, an application seeking liquidation of the Corporate Debtor was filed before the Adjudicating Authority, NCLT, Hyderabad and NCLT Hyderabad had ordered liquidation of the Corporate Debtor vide its order dated 13.08.2021.

4. Pursuant to the appointment the undersigned as the Liquidator had issued sale notice under Insolvency and Bankruptcy Code read with Regulation 32(e) of the Liquidation Process Regulations inviting bids from interested parties. Pursuant to such notice, one Dr. Madala Srinivasu and Madala Aanita were the



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successful auction purchasers for a sum of Rs. 98,76,20,000. As per the terms and conditions of the auction, the auction purchaser had paid the entire amount and the sale certificate was also issued in favour. The Liquidator is in the process of taking further steps as contemplated under the Liquidation Process Regulation. Once the process is complete the successful auction purchaser will continue the present proceedings.”

3. As the company of the Petitioner has been liquidated and no amendment has been made in that regard, no useful purpose would be served in keeping the Writ Petition pending without any steps having been taken to proceed further.

In such circumstances, the Writ Petition is dismissed without expressing any view on the merits of the controversy involved in the matter. However, it would not preclude any person stepping into the shoes of the Petitioner from applying for revival of the Writ Petition in the manner recognized by law. Consequently, connected miscellaneous petition is closed. No costs.

07.12.2022

pkn

Index: Yes/No



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Copy to:

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P.D. AUDIKESAVALU, J.

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